

TOM COPLEY AM | LONDON ASSEMBLY LABOUR

Working hard for Londoners

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To whom it may concern,

Consultation: Overcoming the Barriers to Longer Tenancies in the Private Rented Sector

I welcome the opportunity to comment on the proposals the Government has set out with the aim of introducing longer tenancies in the Private Rented Sector.

I am pleased that there is an acknowledgement that the current system in England is not fit for purpose in the twenty-first century, given the way that household tenure has changed since the Housing Act 1988 introduced Assured Shorthold Tenancies.

In 1990, only 11% of households in London were in the private rented sector – in 2017, this had risen to 27.4%, now a greater proportion than live in the social rented sector.

Where historically, the perception of private renters is of being mostly students and individuals in their 20s, there are now significant numbers of families and older people living in private rented homes, and our model of tenancy should be updated to provide stability and security to these groups. This would bring England in line with many other countries in Europe, including Scotland and Germany.

Please find my response to the consultation questions below.

Q10: Do you think that the protection for tenants from retaliatory eviction introduced in the Deregulation Act 2015 has been successful? Please explain

No.

This protection only covers the most serious hazards, and requires the local authority to serve an improvement notice before a tenant receives protection. Research by Generation Rent has found that councils only took enforcement action in 18% of cases, leaving the vast majority of tenants unprotected.

Even where enforcement action is taking by a local authority, this is at best a delaying mechanism, by which a landlord can simply wait a further six months and issue another Section 21 notice to remove a tenant. The Act does not go at all far enough to account for the power imbalance that there is between a tenant and a landlord.

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**Q11a: What do you consider to be the main benefits of a longer tenancy for landlords?
(Assign a score out of 10 for the importance of that factor with 10 being the most important)**

Less risk of void periods for landlords – 7
Tenants more likely to take care of property - 9
Landlords save on costs of finding new tenants - 8

**Q11b: What do you consider to be the main benefits of a longer tenancy for tenants?
(Assign a score out of 10 for the importance of that factor with 10 being the most important)**

Greater security for tenants - 10
Tenants saving money as they do not have to sign new tenancies or renew so frequently - 8
Tenants have greater assurance they can afford any rent increase - 8
Tenants more empowered to challenge poor practice – 8

Other: Tenants save money on moving costs by not having to move so frequently

Q13: What do you consider to be the main barriers to landlords offering longer term tenancies?

Tenants do not want them
Landlords do not want to offer them
Landlords concerned about void periods
Time taken to gain possession of property
Agents' advice
Landlords want to retain ability to increase rent
Mortgage conditions

All of the above factors are certainly barriers to differing extents.

However I would add that a lot comes down to culture, awareness, and professionalism. Tenants may be wary of longer tenancies simply because they do not understand the nature of them, and that break-clauses or serving notice would allow them flexibility to move out before the end of a longer-lease, rather than a longer lease requiring them to live in the same place for the full three-year period.

Similarly, there is not a quality professional culture among landlords, who often are not able, or do not know how, to let a proper *home*, rather than simply a short-term place for someone to stay.

A New Framework

Our suggested longer term tenancy model is a three year tenancy with a six month break clause. The main components would be:

- a. A three year tenancy but with an opportunity for landlord and tenant to leave the agreement after the initial six months if dissatisfied. If both landlord and tenant are happy, the tenancy would continue for a further two and a half years.*
- b. Following the six month break clause, the tenant would be able to leave the*

tenancy by providing a minimum of two months' notice in writing.

c. Landlords can recover their property during the fixed term if they have reasonable grounds. These grounds would be in accordance with the existing grounds in Schedule 2 of the Housing Act 1988 and would include antisocial behaviour and the tenant not paying the rent. Landlords must give the tenant notice (which would follow the notice set out in section 8 of the Housing Act 1988 for the ground or grounds used). Additionally, there would be grounds which covered landlords selling the property, as is possible in the current model tenancy agreement, or moving into it themselves. These grounds would require the landlord to provide at least two months or 8 weeks notice in writing.

d. Rents can only increase once per year at whatever rate the landlord and tenant agree but the landlord must be absolutely clear about how rents will increase when advertising the property. Any agreement on rent should be detailed in the tenancy agreement.

e. Exemptions could be put in place for tenancies which could not realistically last for three years, for example, accommodation let to students or holiday lets.

Q14: Do you think that a three year tenancy with a six month break clause as described above is workable? Please explain

Yes.

It would certainly be workable, as broadly similar models are in successful operation in countries like Germany, Netherlands, Denmark, France, Ireland and as of 2017, Scotland.

Landlords would still be able to recover their properties if tenants did not pay rent, damaged the property or otherwise broke the terms of their tenancy, or if the landlord wanted to sell or live-in the property.

It would simply provide greater stability to both tenants, who would be able to make a home and not expect to be asked to leave for no fault of their own, and for landlords, who would enjoy stable rental income with fewer void periods, and tenants with a greater investment in taking care of the property.

The proposed legislation should however go further and not include a six-month break clause or probationary period. All private renters should be given security of tenure and not have to wait six months to earn it. If the tenant is not happy with the arrangement in the first six months then they can serve notice to leave, and the landlord can recover their property if required under the existing section 8 grounds.

A six-month break clause could be abused by some unscrupulous landlords by cancelling the tenancy agreement every six months and issuing a new one. It is crucial that there are no loopholes.

Q16: How long do you think an initial fixed term tenancy agreement should last (not considering any break clauses or notice periods)? Please explain

No limit set.

The Government should follow the example set by the Scottish Government and introduce open-ended tenancies without an initial six-month break.

Once you have removed no-fault evictions (Section 21), introduced an effective system of serving notice, and ensure that landlords are still able to recover their properties when rent is not paid or the tenants break other conditions of their lease, then setting a term-limit on longer tenancies is an arbitrary step (albeit one which would be a step forward from the status quo).

An open-ended tenancy model, with fair restrictions on rent increases, would provide long-term security and stability to tenants and landlords, and help create a private rental market that is fit for purpose, where individuals and families can build lives in a proper home.

As well as Scotland, a similar open-ended model operates successfully in Germany, Netherlands and Denmark.

Q17: What do you think is an appropriate length of time for a break clause?

Other.

There should be no break clause for any initial or probationary period. Tenants should receive full security and stability from the start of their lease.

The proposed reason for a break clause would be if tenants or landlords are “dissatisfied” with the agreement.

A tenant that is dissatisfied may leave the tenancy anyway at any point by giving two months’ notice.

A landlord should have to give reason for their dissatisfaction or requirement to end the tenancy, using the existing grounds under Section 8 of the Housing Act 1988 including: if they wish to live in the property as their principle home, if the tenant has 8 weeks or more rent arrears, if the tenancy agreement is breached, if the tenant is damaging the property and in cases where a tenant is causing anti-social behaviour.

Allowing a landlord to end the tenancy after six months simply because they are “dissatisfied”, with no specific reason, would simply amount to the continuation of Section 21 “no fault evictions”, which should be abolished.

Similarly, a break clause could allow a loophole by which landlords routinely enforce the break clause, and begin a new tenancy every six months, denying the tenant the security these proposals are designed to bring.

Q18: How much notice should landlords be required to give to tenants when they want to recover their property to sell or move into?

3 months or 12 weeks

Q19: How much notice should tenants be required to give to their landlords when they want to leave their tenancy?

2 months or 8 weeks

Q20: Do you think that the grounds for a landlord recovering their property during the fixed term under any longer term tenancy agreement should mirror those in Schedule 2 of the Housing Act 1988, with the addition of the right for the landlord to recover their property when they wish to move in or sell it?

Yes.

The key issue is that Section 21 of the Housing Act 1988, by which a landlord does not have to give any grounds to recover possession, no longer applies.

The grounds set out in Schedule 2 seem appropriate, however should be updated where appropriate to fit with current market conditions. There should be a further caveat that if a landlord wishes to sell their property, the tenant should first of all be given the opportunity to carry on living in the property under the new owner.

Q21: Do you think that there should be any restrictions on how often and by what level the rent should be increased in a longer tenancy agreement? And if so what is the maximum that these restrictions should be? (Tick up to two)

Yes – rent increases should be limited to once per year

Yes – any rent increases should be linked with inflation measures (e.g. Consumer Price Index (CPI))

Q22: What do you think is the best way to ensure that landlords offer longer term tenancies to those that want them or need them? Please explain.

Change the law to require all landlords to offer longer tenancies.

The law should be changed so that all landlords are required to offer longer tenancies. Other than for specifically exempted types of tenancy, which should be detailed in the new legislation, there is no need for options for a shorter length, so long as the tenant and landlord may give notice subject to the conditions set out earlier. If landlords are given the option to offer shorter tenancies, other than in tightly defined situations, this will be a major loophole and defeat the whole point of this exercise.

Q23: Which types of tenancy should be exempted from the proposed system?

Purpose Built Student Accommodation - yes

All Student Accommodation - no

Holiday Lets - yes

Tenancies for those with visas ending in the next 3 years - no

Tenancies for those with short term work contracts -no

It makes sense for purpose built student accommodation to be exempted, as that is typically offered to first-year students for the duration of the academic year, and would need to be available for the following cohort.

Other student accommodation, such as regular housing stock aimed at students living in an HMO, need not be exempted, as students may want to stay in the same place for more than a year, and if they do not, they can make their intentions clear to the landlord by serving notice as suggested for any other tenancy in the proposed system.

Tenancies for those with visas ending or short term work contracts should not be exempted, as such circumstances are liable to change (visas and contracts can be extended) and individuals and families living in such circumstances should not be denied the same stability of tenancy as others. People would still be obliged to pay rent and meet conditions of their tenancy, and if they needed to move, they would be able to give notice to the landlord.

Q24: What do you think would be the benefits and disadvantages of changing the law to require all landlords to offer the longer term tenancy model?

It would create a private rental market that is fit for the twenty-first century, given that a much greater proportion of people live in the sector than when the legislation last underwent significant changes in 1988.

More and more individuals are privately renting for longer, as house prices push home-ownership out of reach for many, especially in London. This means that many more people are renting into their 30s, 40s and beyond than ever before, and a much greater proportion of families too. A longer term tenancy model provides stability for these people, and allows them to build a home without fear of having to uproot at short notice. By ensuring that rents are capped at CPI inflation rates, this would also provide financial stability and allow families to plan for the future.

There would be very few, if any, disadvantages compared to the existing tenancy model.

Q26: If there were a financial incentive to offering longer tenancies, what conditions should a landlord have to comply with to be eligible? (Tick all that apply)

Meet all legal requirements - yes

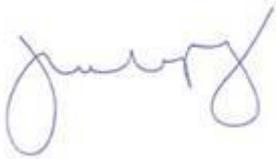
Agree to certain restrictions about frequency and level of any rent increases - yes

Comply with a minimum property standards, including gas safety checks and tenancy deposit protection yes

Q28: Do you consider that any of the above would impact on people who share a protected characteristic, as defined under the Equalities Act 2010, differently from people who do not share it? If yes, please provide details.

No.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Tom Copley', with a stylized flourish at the end.

Tom Copley
London-wide Assembly Member