

A new deal for renting? The unintended consequences of abolishing Section 21



About the National Landlords Association

The National Landlords Association (NLA) is the UK's leading organisation for private-residential landlords, with over 40,000 landlord members, ranging from full-time landlords with large property portfolios to those with just a single letting. NLA membership helps landlords make a success of their lettings business by providing a wide range of information, advice and services. The NLA campaigns for the legitimate interests of landlords by seeking to influence decision-makers at all levels of government and by making landlords' collective voice heard in the media. It seeks to raise standards in the private-rented sector while aiming to ensure that landlords are aware of their statutory rights and responsibilities.

landlords.org.uk

About Capital Economics

Capital Economics is one of the leading independent economic research companies in the world. Our large team of more than 60 experienced economists provides award-winning macroeconomic, financial market and sectoral analysis, forecasts and consultancy, from offices in London, New York, Toronto, Sydney and Singapore.

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Executive summary

The National Landlords Association (NLA) commissioned Capital Economics to research and report upon the potential impacts of the removal of Section 21 'no fault' evictions. The NLA surveyed its members in relation to the policy proposal. Capital Economics developed a model to map the survey responses to the landlord population in England and its regions.

The removal of Section 21 would add to the increasing pressure that private landlords have come under from government policy over the past few years, and there are signs that the impacts of these are starting to bite; the number of dwellings in the private rented sector in England fell by 46,000 in 2017, the first fall since 1999.

Although the prospects for rental growth are improving, house price increases are expected to remain subdued and mortgage costs to rise, which will leave modest returns for landlords.

In the context of an increasingly challenging market, the Government's proposed reforms to Section 21 will act as a further disincentive for investment, with a significant proportion of landlords indicating they would either exit the market completely, or reduce the size of their portfolio. Those who remain in the market are likely to become more selective about the tenants they let to, in order to reduce investment risks in the absence of the certainty of the Section 21 process.

If landlords nationally act in line our survey sample the most likely response to the removal of Section 21 will be:

- the private rented dwelling stock to rent in England would fall by 20 percent (960,000 dwellings)
- there would be a 59 percent reduction in the private rented dwellings available to households which claim local housing allowance or universal credit (770,000 fewer dwellings)
- around 600,000 homes could see rent increases (13 percent of the sector).

One of the key challenges landlords face in using the Section 8 process is a court system which is costly, time-consuming and can be inconsistent. A reformed court process that made dealing with Section 8 cases faster and cheaper would go some way to addressing the concerns that many landlords have about the removal of Section 21.

With a reformed court process and landlords acting as they have indicated, the impact of the removal of Section 21 on supply and rent would be significantly reduced. Our analysis indicates it would:

- reduce the private rented sector supply by between 4 to 8 percent (180,000 and 390,000 dwellings)
- reduce the number of dwellings available to benefit claimants by between 10 and 23 percent (130,000 and 300,000 dwellings).
- increase rents for between 110,000 and 240,000 homes (between 2 and 5 percent of the sector).

Chapter 1: Context

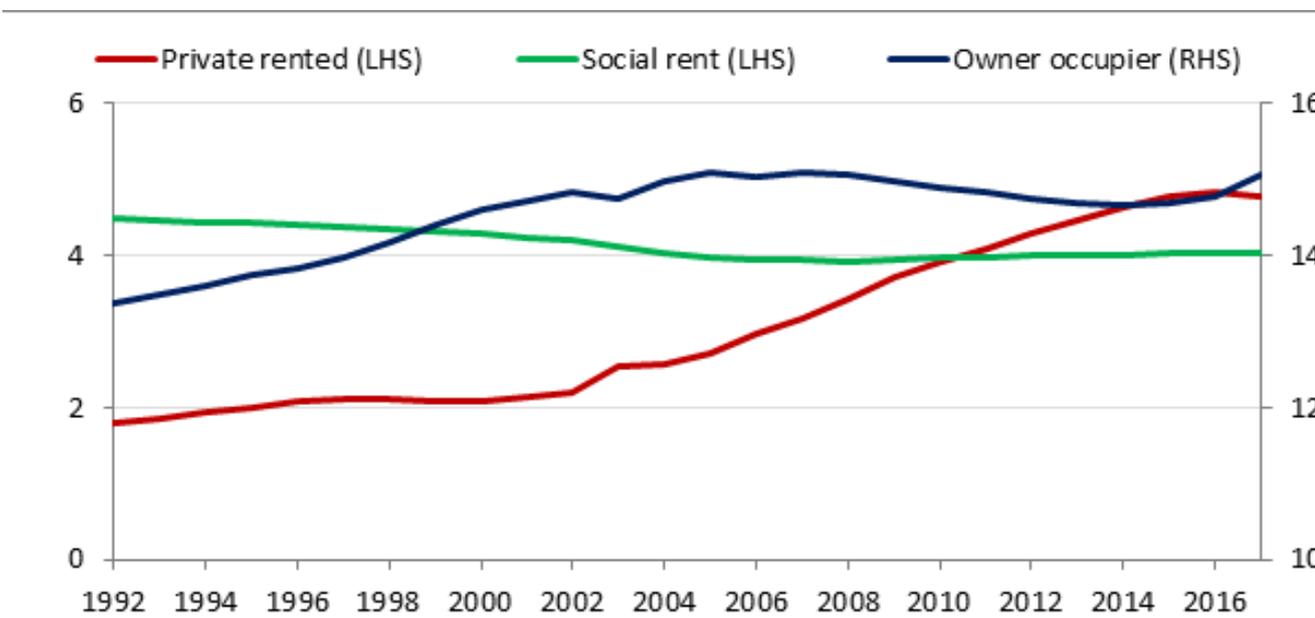
On 15 April 2019, the Communities Secretary, Rt Hon James Brokenshire, announced the Government's intention to abolish Section 21 evictions, meaning private landlords would no longer be able to evict tenants from their homes without providing a reason. The change is intended to protect tenants by providing them with more certainty. The statement read:

"By abolishing these kinds of evictions, every single person living in the private rented sector will be empowered to make the right housing choice for themselves – not have it made for them. And this will be balanced by ensuring responsible landlords can get their property back where they have proper reason to do so."

On 21 July 2019, the Government launched their consultation on proposed changes, titled: *A new deal for renting: resetting the balance of rights and responsibilities between landlords and tenants*. The consultation proposes removing the assured shorthold tenancy regime in England, with assured tenancies becoming the default.

a. The private rented sector in England

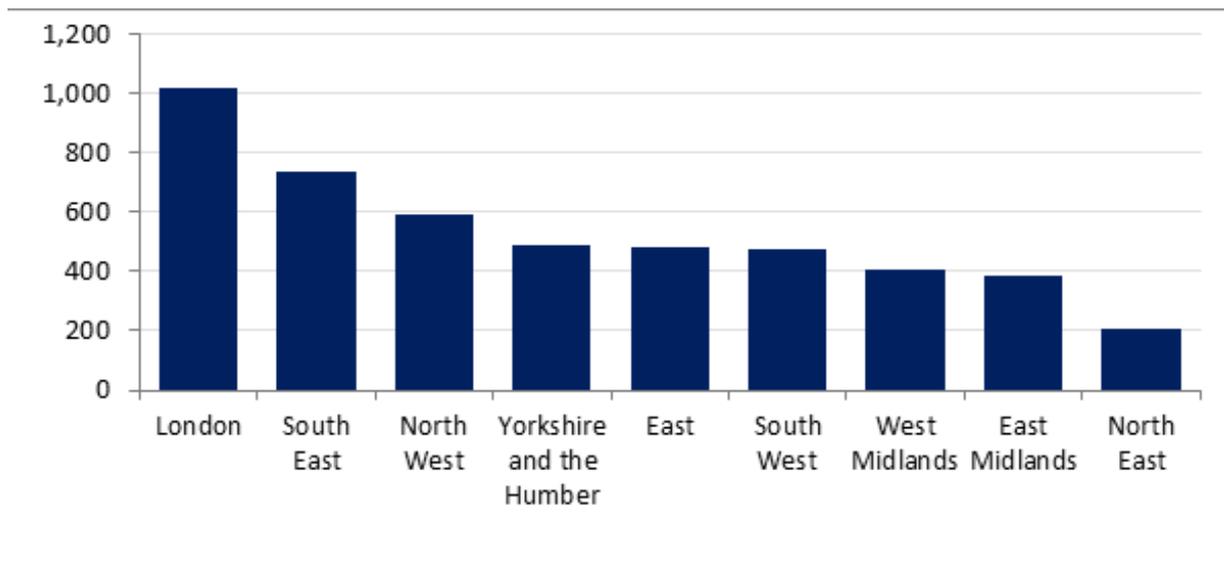
The private rented sector's share of the dwelling stock in the United Kingdom has doubled from around ten percent (2.1 million dwellings) at the turn of the century to over twenty percent (4.8 million dwellings) in 2017. This has coincided with the diminishing prevalence of the social rented sector and also a decline in the number of owner-occupiers since 2007, although this number rose in 2017.



Dwelling stock by type of tenure, millions, United Kingdom

Sources: Capital Economics and the Ministry of Housing, Communities & Local Government

London has the largest private rented sector of any region in England with just over one million dwellings, accounting for over one fifth of the private rented dwelling stock in England. The South East accounts for a further 740 thousand dwellings, or 15 percent of England’s stock.



Number of dwellings in the private rented sector in England, 2017, thousands

Sources: Capital Economics and Ministry of Housing, Communities & Local Government

The private rented dwellings stock in London as a share of the stock of all dwellings in the capital is the highest of any region in England at 29 percent. The West Midlands has the lowest share of private rented accommodation in its total stock, at 17 percent.

In 2018, there were 1.5 million landlords that registered tenant deposits with a tenancy deposit protection scheme, which has been a legal requirement since 2007 for assured shorthold tenancy agreements. The Ministry of Housing, Communities & Local Government suggests that this covers between 56 and 71 percent of all landlords in England, meaning there are likely to be a total of between 2.2 and 2.8 million landlords across the country.

The English Private Landlord Survey, which covers the population of landlords that have registered a deposit with a tenancy deposit protection scheme, suggests that 94 percent of landlords are private individuals. The remainder are set up as a company or other structures.

Recent policy changes

Over recent years, the Government has introduced a number of changes to the regulation of the private rented sector as well as new tax burdens for landlords. Many of these changes have been piecemeal – amending existing legislation rather than introducing a new model for private renting. Some changes, such as this year’s introduction of a ban on letting fees, have been introduced with short lead in times, requiring landlords and agents to adjust quickly to a new normal. The guidance for the tenant fees ban was published on 3 April 2019, just two months before the ban came into force.

It is too early to tell from official data what the full impact of the policies affecting the private rented sector enacted to date will be. The phased withdrawal of mortgage interest relief and the high up-front cost nature of the industry mean that the impacts of the policy changes are likely to be spread out over a number of years. In particular, landlords’ decisions to deleverage or exit the market are likely to be decisions made over time, especially with the current low rate environment limiting investment options elsewhere.

However, some data suggest that the policies are starting to have an effect. The number of dwellings in the private rented sector in England fell by 46,000 in 2017, the first fall since 1999. Although it is not possible to be certain, it seems likely that part of the sell-off is in response to the policies introduced by the Government in recent years.

Mortgage interest relief

In his penultimate budget the then chancellor, George Osborne, announced measures to restrict relief for finance costs on residential properties to the basic rate of income tax with the stated objective of making the tax system fairer.

Previously, buy-to-let landlords had been able to deduct their legitimate finance costs, including mortgage interest, which was seen as a business expense from their taxable income. Having started to introduce the new regime in April 2017, one quarter of the relief is being withdrawn each year until all relief against finance costs incurred by a landlord is removed and a tax reduction equivalent to the basic rate of Income Tax is applied in 2020/21.

This effectively means that landlords will pay Income Tax on their income including finance costs, rather than simply profit, minus a reduction after-the-fact. For higher rate taxpayers this will mean paying 20 percent tax on the amount of their mortgage interest and additional rate taxpayers will pay 25 percent – despite having already paid these monies to their respective financial institutions.

	With relief	With only basic relief
House price	200,000	200,000
Gross rental yield	4.8%	4.8%
Rent	9,600	9,600
Loan to value ratio	61%	61%
Mortgage	122,000	122,000
Interest Rate	3.5%	3.5%
Mortgage interest payment	4,270	4,270
Allowable expenses (10% rent)	960	960
Pre-tax income	4,370	4,370
Tax paid	1,748	2,602
At 20%	0	854
At 40%	1,748	1,748
Net profit	2,622	1,768
Yield after tax and mortgage costs	1.31	0.88

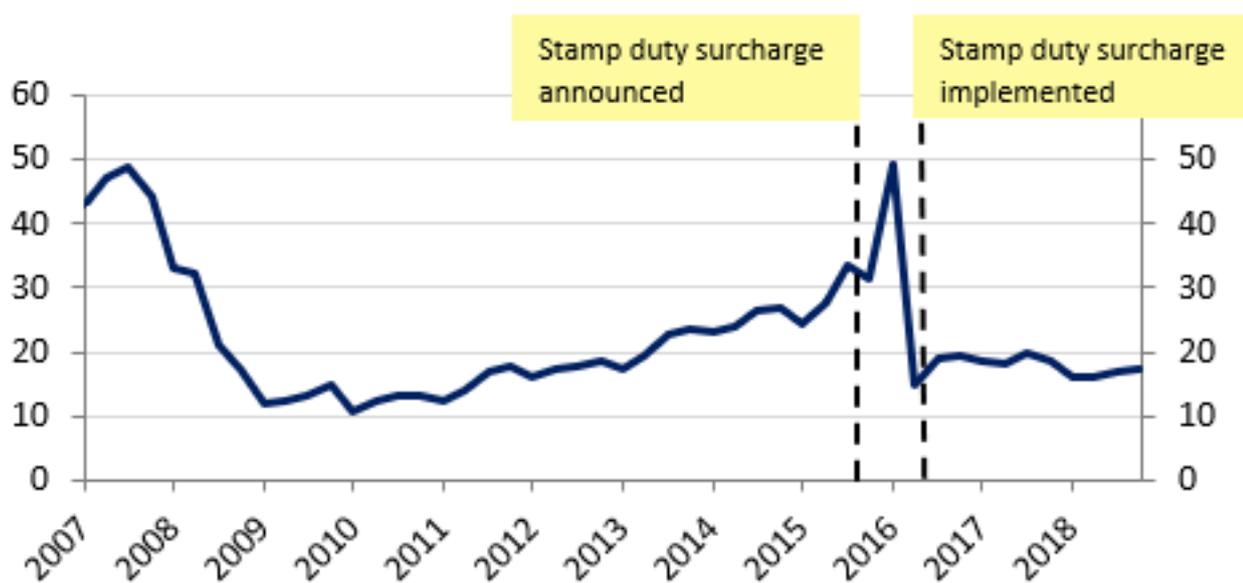
Exemplar impact of withdrawal of mortgage interest relief for higher rate tax payer with one property

Source: Capital Economics

Stamp duty

In 2015, as part of the Government's stated commitment to support home ownership, a higher rate of Stamp Duty Land Tax on purchases of additional residential properties was announced. Effective as of April 2016 it is levied at three percent of the purchase price, over and above the standard rate.

Mortgage advances data indicate that this was the primary driver of the peak and fall in home sales for buy-to-let purposes around the introduction of the policy change. The policy initially distorted the market by shifting demand. Buy-to-let mortgage applications rose in volume compared to a year previously from March 2015 when the policy was announced and peaked in March 2016, the month before the change took effect.



Number of buy-to-let mortgages advanced for house purchase per quarter, thousands

Sources: Capital Economics and UK Finance

After the implementation of the policy, net additions to the buy-to-let stock fell sharply. Data on the stock of buy-to-let mortgages suggests that there has been an increase in buy-to-let landlords leaving the market. In 2018, the rate of change in the stock of buy-to-let mortgages fell to under 30,000 additions per year, compared to an average of 116,000 between 2014 and 2016 and a longer term average of around 100,000 per year since the turn of the century.

Regulatory changes

In addition to tax changes, the Government has introduced a number of initiatives in the private rented sector in England in recent years, including the Tenant Fees Act 2019, which bans letting fees charged to tenants and introduced a cap on security deposits; changes to mandatory licensing for houses in multiple occupation (2018); the introduction of minimum energy efficiency standards (2018); and prescribed information requirements at the beginning of a tenancy, protection from retaliatory eviction, and limitations on the use of Section 21, through the Deregulation Act 2015.

The changes are often introduced with a short transition period, and form a somewhat piecemeal approach, rather than a strategic trajectory for which landlords and letting agents can plan and prepare. Each of these changes have an impact on lettings businesses, and costs are incurred in meeting new regulations.

The wider economic context

The delay to Brexit from 29th March 2019 is likely to prevent the Bank of England from raising interest rates in the immediate future from the mid-2019 level of 0.75 percent.

But once a resolution to Brexit is achieved, and with decent wage growth likely to prompt inflation to rise above the two percent target, the Bank may reasonably be expected to raise interest rates to one percent in 2020 and to 1.50 percent in 2021.

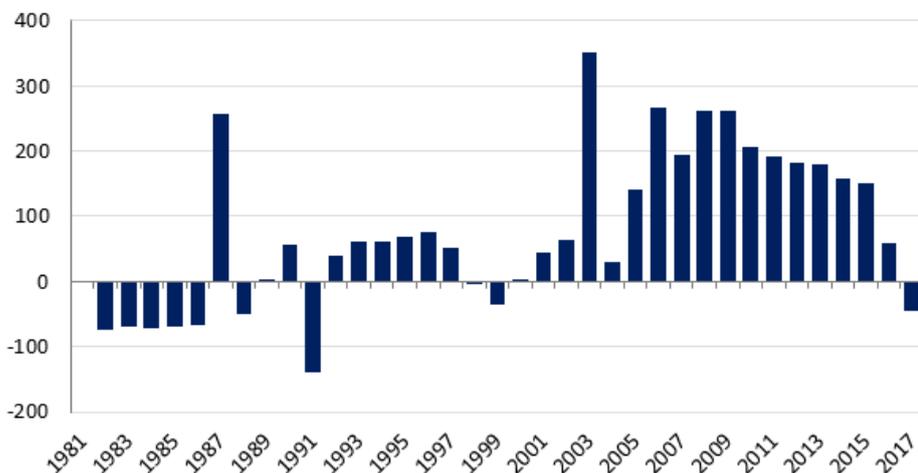
As a result, mortgage interest rates may see a substantive increase over the next few years – reaching perhaps 2.8 percent by the end of 2021.

Overall, house prices should rise by around one percent in 2019, before picking-up to two percent by the end of 2021 – still sluggish by past standards and below the rate of consumer price inflation. We expect every region to see house price growth of below 3.5 percent year-on-year through to 2021.

A potential downturn to the economy should the UK exit the EU without a deal, faster interest rate rises and investors' reactions to government policy changes bring further downside risks of a more sizeable correction in house prices.

High house prices reflect the very low level of mortgage interest rates. Declining interest rates have also encouraged borrowers to take on larger loans (where available), while paying no more in mortgage repayments as a percentage of income. But as interest rates rise over the next few years, that support will be steadily unwound.

Higher wages, reflecting the tight labour market conditions, should support faster rent rises and could reverse the increase in the number of young adults staying in their parental homes too, which has weakened tenant demand in recent years. Furthermore, supply in the rental sector has weakened, adding further upward pressure on rents.



Annual change in private rented sector dwellings, England, thousands

Sources: Capital Economics and Ministry of Housing and Communities & Local Government

Overall, we think rents will rise by an average of one percent during 2019, before accelerating to two percent in 2020 and possibly to three percent in 2021. This rise will be partly driven by the ongoing recovery in London, reflecting a renewed tightening in its rental market conditions.

However, rising rents will bring limited comfort for investors. With house price increases expected to remain subdued over the next two years and mortgage costs rising, any increase in returns will be modest. With no turnaround in sight, this suggests that the sell-off in buy-to-let may extend into the longer term.

Chapter 2: Current possession process

Why do landlords use Section 21?

Section 21 of the Housing Act 1988 enables private landlords to repossess their properties without having to establish fault on the part of a tenant. It only applies to Assured Shorthold Tenancies (ASTs), and only after the expiry of any initial fixed term.

Landlords cannot use Section 21 to end a tenancy during a fixed term, or within the first six months of an AST in England, and they must give tenants a minimum of two months' notice of intention to seek possession. Thereafter, if the tenant does not move out, the landlord must seek a court order for possession. Landlords can apply for an accelerated possession order. When this is the case, it negates the need for a court hearing unless the tenant challenges the claim. If a tenant does not move out on the date specified in the court order, the landlord can apply to the court again for a warrant for possession and to arrange for bailiffs to evict the tenants.

The alternative, Section 8, allows a landlord apply to the court to evict a tenant at any point of the tenancy, including within a fixed-term. Section 8 is available for both ASTs and assured tenancies. To do this the landlord needs to have provable grounds, as set out in the Housing Act 1988. The grounds include rent arrears, anti-social behaviour or damage to the property. Section 8 require a court hearing if tenants do not vacate the property at the end of any relevant notice period.

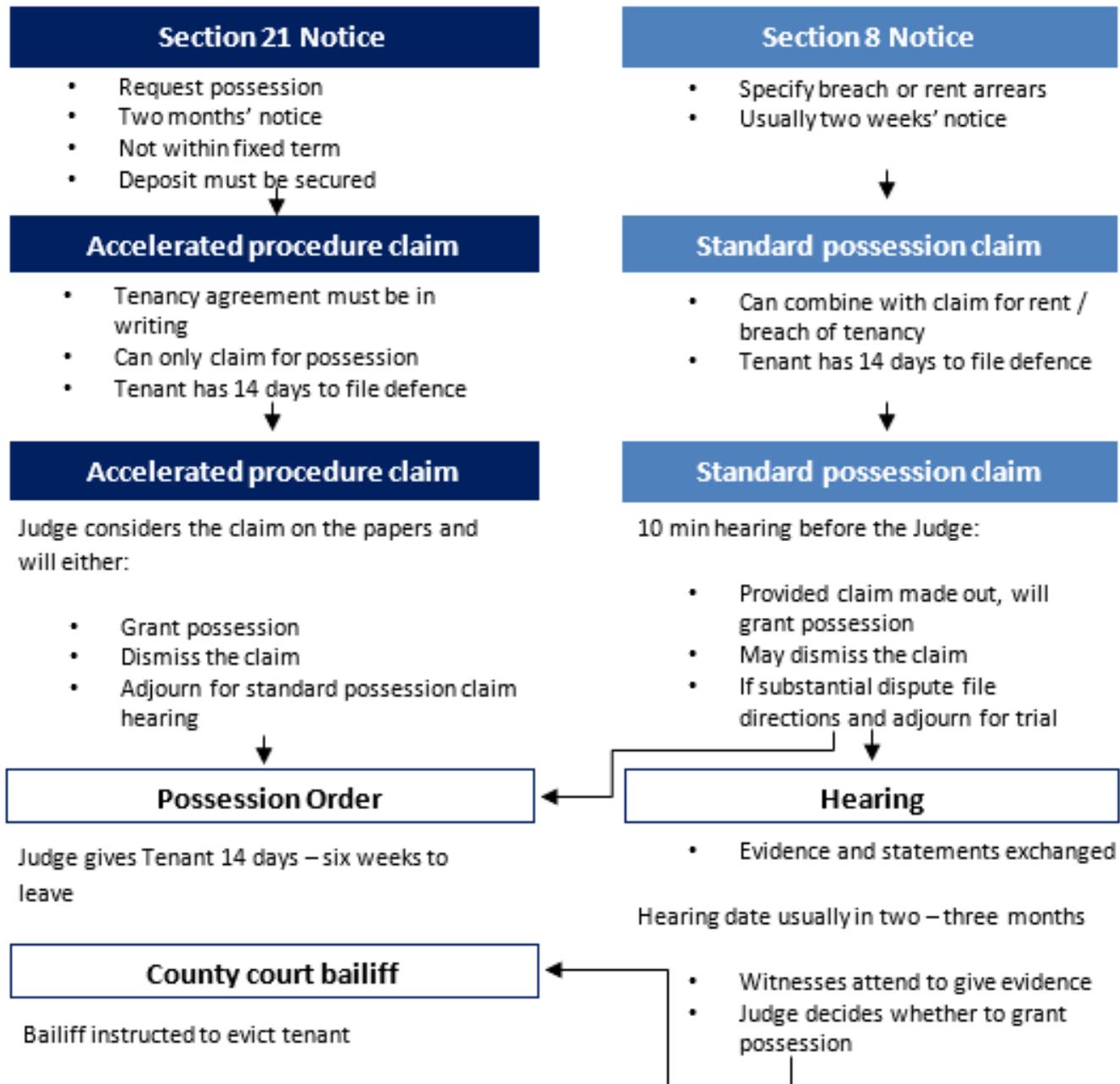
Why are landlords concerned about the loss of Section 21?

Providing more security for tenants is a laudable objective, but by removing Section 21 the government risks damaging the private rented sector and reducing the availability of homes to rent.

In addition to the impact of government policies on landlords' bottom lines, slowing house price growth has pushed returns lower. If it becomes more difficult and/or costly for landlords to remove problematic tenants there is a greater incentive for landlords to exit the market or seek alternative investments.

The main concern for landlords is the difficulty in removing tenants who are causing problems, for example through engaging in anti-social behaviour or falling behind on rent payments. There are a number of benefits to landlords of using Section 21 to remove problem tenants rather than using Section 8, including:

- The relatively high burden of proof for demonstrating things such as anti-social behaviour
- The greater likelihood of having to go to court having served a Section 8 notice
- The financial and time costs of the process
- The ability for tenants to tactically clear rent arrears before a Section 8 hearing, only to build up rent arrears again afterwards.



Process for a landlord repossessing property

Sources: Capital Economics and Sampson Coward

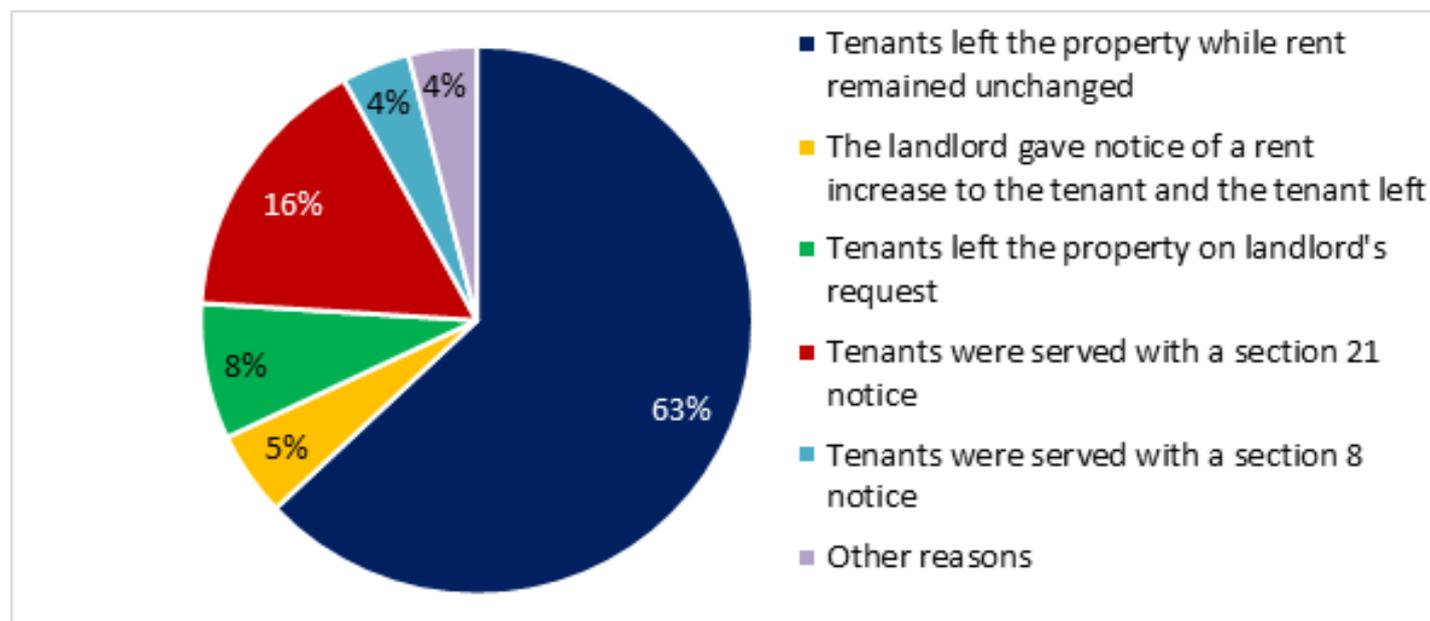
How do landlords end tenancies in practice?

There were 23,422 possession claims by private landlords through the standard procedure in 2018. Of this number, around 30 percent (6,913) led to re-possession. Meanwhile, there were 23,310

possession claims by private and social landlords using the accelerated procedure for Section 21 of which there were 10,351 re-possession.

However, there are no official statistics on the number of Section 21 or Section 8 notices served. Only those cases that require a possession claim are represented in the data, and the general use of Section 21 notices to remove tenants is likely to be much higher.

In a survey of National Landlord Association members, landlords were asked about how their most recent tenancies had ended. Over 2,600 landlords responded, covering over 22,000 tenancies.



Share of most recent tenancies by how they were ended, 2019, percent

Sources: Capital Economics and National Landlords Association

Most tenancies (63 percent) are ended when the tenant decides to leave. However, the survey reveals that 16 percent of tenancies were ended by a Section 21 notice. This implies that the actual number of tenancies in which Section 21 notices are used to end a tenancy is significantly higher than the number of possession claims made. In addition, eight percent of tenancies were ended through an informal agreement between the landlord and tenant. Without Section 21 a proportion of these would instead need to go through a Section 8 process.

These figures demonstrate that the direct impact of the removal of Section 21 is greater than the official statistics on possession claims alone would indicate.

Challenges in regaining possession

Responses to the government's consultation on longer tenancies in 2018 suggest that 47 percent of landlords had experienced difficulties repossessing a property.

Going to court in order to repossess a property can be costly and time consuming for landlords. The majority of Section 21 cases can be carried out primarily on paper, unlike Section 8 cases which usually require a court hearing.

The responses to the Government's consultation on longer tenancies indicated that, in total, the average cost to landlords was between £1,000 and £5,000, including loss of rental income and legal fees.

Court statistics illustrate the time it takes to move through the standard process for a possession claim and for the accelerated process (the latter is available for Section 21 only).

The duration of the accelerated process is only published for private and social landlords combined. For the standard process, statistics on claims raised by private and social landlords are separately available. We have calculated the median duration of a standard process for claims issued by both private and social landlords for comparability with the combined accelerated process figures.

The process for social landlords is typically longer than that for private landlords and the number of social landlord claims (58,000 in 2018) is significantly larger than private landlord claims (17,000). The weighted average duration of the standard process for all landlords is therefore longer than for private landlords alone.

	Claim to order	Claim to warrant	Claim to possession
All landlords, standard process	7.1	24.5	25.4
All landlords, accelerated process	5.3	10.1	18.0

Duration (in weeks) for standard and accelerated procedure for a landlord repossessing property, 2018

Sources: Capital Economics and Ministry of Justice. Note: Durations for all landlords standard process are calculated by Capital Economics.

In 2018, standard private landlord possession claims typically took 7.1 weeks between a claim being made and a possession order being issued, an average of 10.0 weeks between a claim being made and a warrant issued, and an average of 16.4 weeks between a claim being made and a repossession occurring.

For landlord possession claims using the accelerated Section 21 process, there was an average of 5.3 weeks between a claim being made and an order being issued, 10.1 weeks between a claim being made and a warrant being issued, and an average of 18.0 weeks between a claim being made and a repossession being granted. The differing durations between private and social landlord standard claims suggests that such differentials may also apply to accelerated processes.

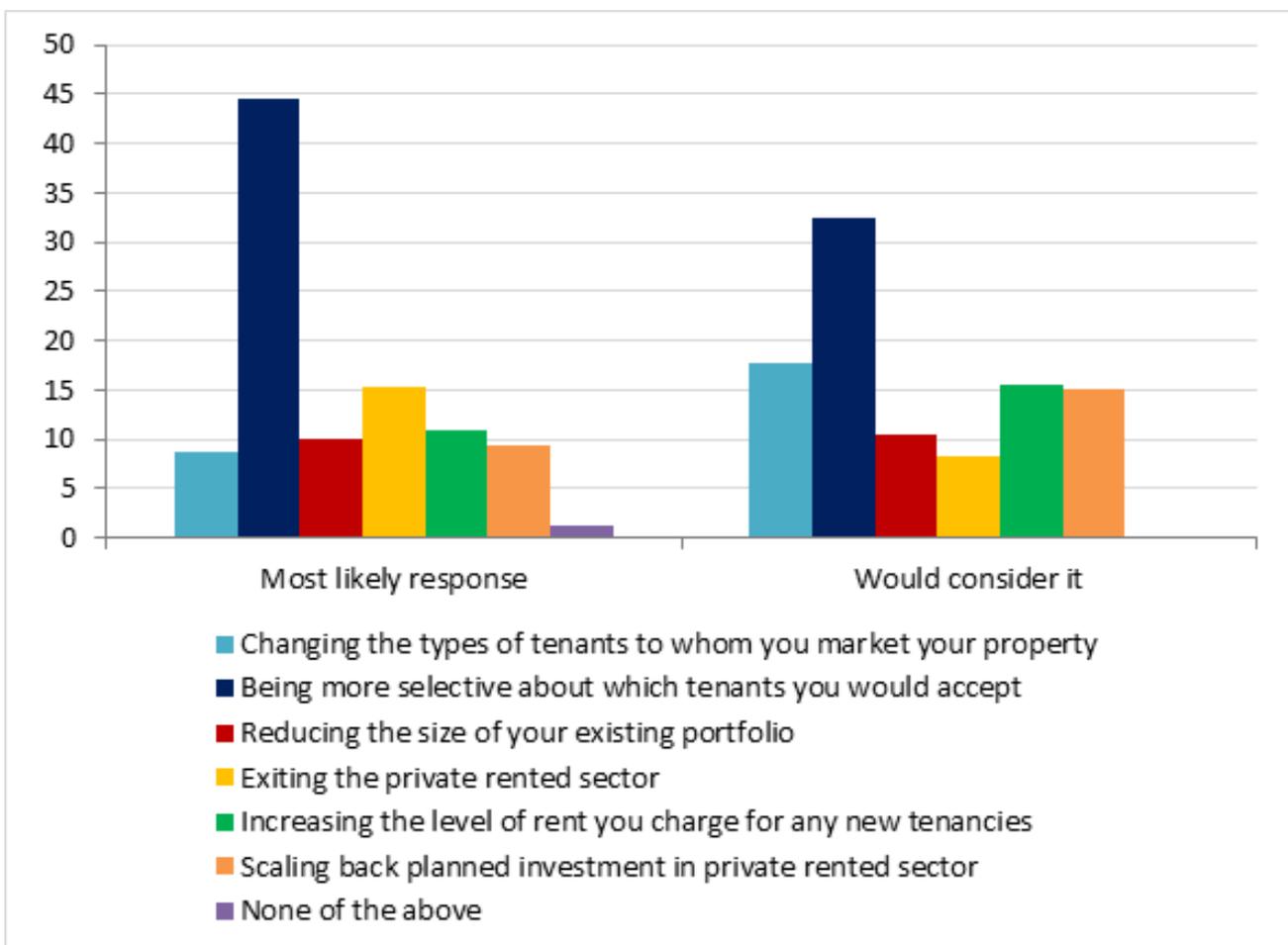
Chapter 3: Modelling the impact of removing Section 21

Members' responses to the NLA survey have been used to develop a model to assess the potential impact of removing Section 21 on the private rented sector nationally.

Survey results

The NLA surveyed more than 2800 members on their views on the Government's proposal to abolish Section 21, and how they would respond to the change.

It is likely that landlords will respond in multiple ways to the abolition of Section 21. However, when asked what their single most likely response would be, 43 percent of landlords said that they would be more selective about which tenants they would accept. A further 16 percent of landlords said they would exit the private rented sector, and 10 percent said they would reduce the size of their existing portfolio. Around 11 percent said they would increase the rent for any new tenancies. Around 11 percent said they would increase the rent for any new tenancies.

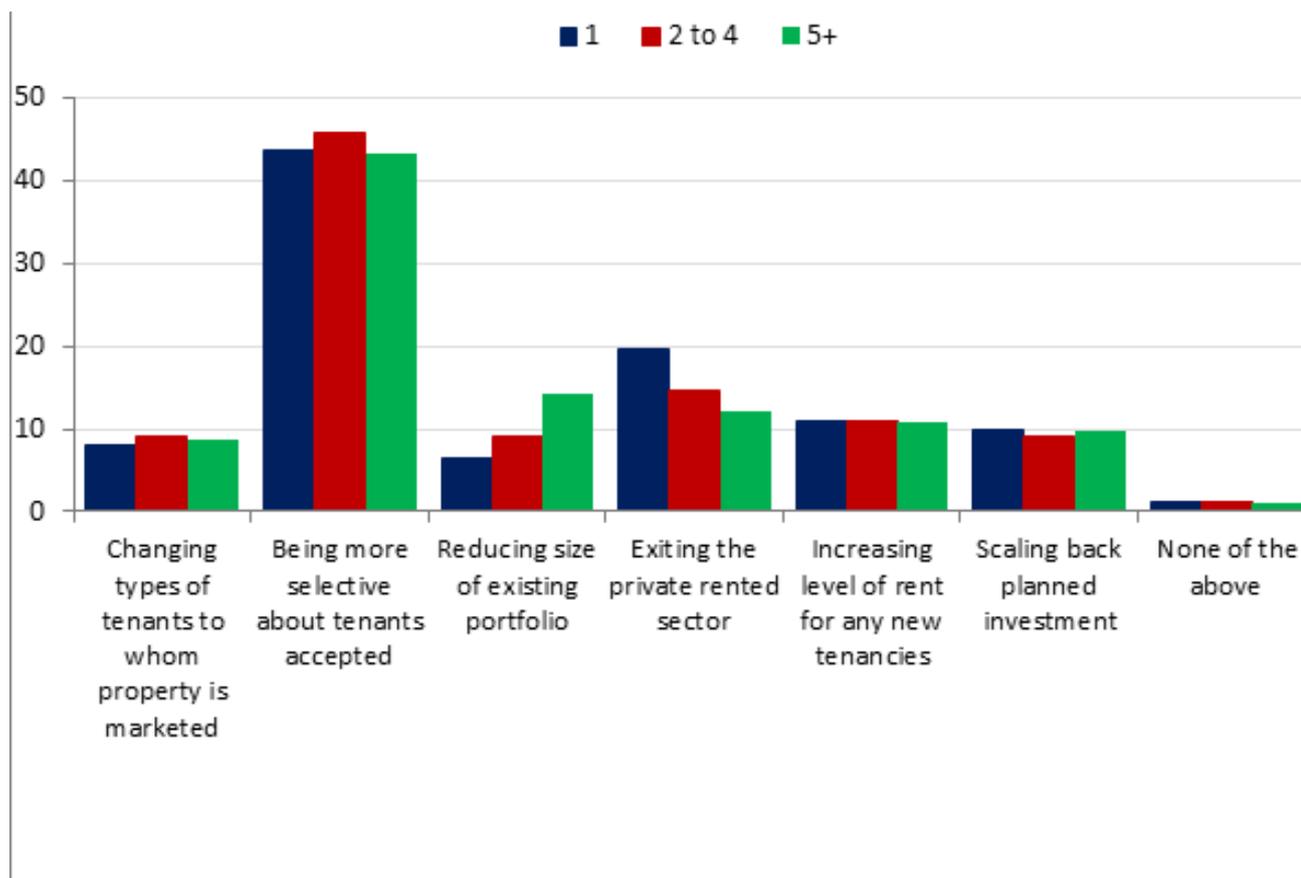


'Most likely' and 'would consider' responses to the removal of Section 21, percent

Sources: Capital Economics and National Landlords Association

Breaking these results down into portfolio size, landlords with small portfolios are more likely to choose to leave the private rented sector (20 percent of landlords with one property, 12 percent of landlords with five or more properties). However, landlords with larger portfolios are, unsurprisingly, more likely to consider reducing the size of their existing portfolio (14 percent of landlords with five or more properties).

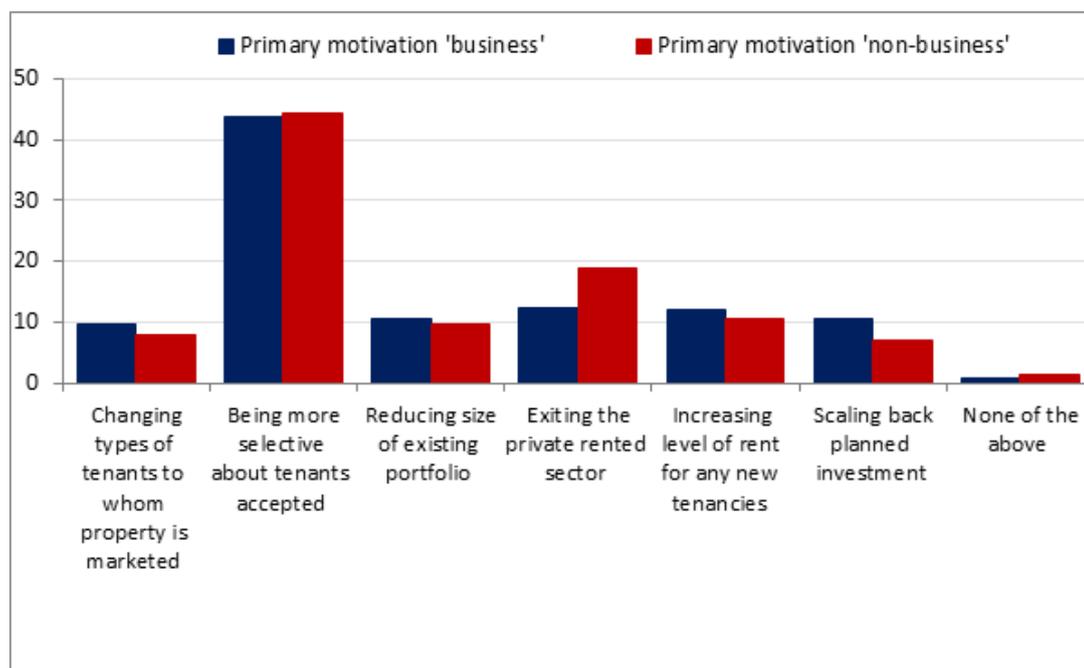
Being more selective about the tenants accepted was the most common response across portfolio size, with little significant difference (ranging from 43 to 46 percent of landlords).



Share of landlords answering 'most likely response to removal of Section 21' by portfolio size, England, percent

Sources: Capital Economics and National Landlords Association

We also considered whether there was a difference between those landlords whose primary motivation is 'business' and those whose have a 'non-business' motivation. While the responses to most options were similar, non-business landlords were more likely to leave the private rented sector altogether than business landlords (19 percent versus 12 percent).



Share of landlords answering 'most likely response to removal of Section 21' by landlord motivation, England, percent

Sources: Capital Economics and National Landlords Association

Modelling the impact of the private rented sector

To ensure that the responses to the survey are representative of the private rented sector – and are not skewed by differences between the constitution of National Landlord Association members and the general landlord population – the respondent sample is scaled to reflect the characteristics of the landlord population in England.

Data from the Ministry of Housing, Communities & Local Government on dwelling stock and from the Ministry’s English Private Landlord Survey are used for the scaling.

Landlords’ characteristics captured in the scaling are:

1. Regional scaling

We have modelled the impact on landlords in each of the nine regions in England. For some regions with smaller sample sizes we have taken overall results for the region and distributed across motivations and business sizes using national averages.

2. Portfolio size scaling

Landlords are grouped into those holding one property, those holding two to four properties and those holding five or more properties.

3. Motivation for holding property scaling

Landlords, whose primary motivation for holding a property was to “run a full time property business”, “supplement income” or “part of a property development/redevelopment venture” were classified as ‘business’ landlords. Those that hold a property for all other reasons are classified as ‘non-business’.

	Business			Non-business			Total
	1	2 to 4	5+	1	2 to 4	5+	
England	145	158	135	549	433	123	1,543
London	31	34	29	117	92	26	329
South East	22	24	21	84	67	19	237
South West	14	16	13	54	43	12	152
East	15	16	14	55	44	12	155
West Midlands	12	13	11	47	37	10	131
East Midlands	12	13	11	44	35	10	124
Yorkshire and the Humber	15	16	14	56	44	13	158
North East	6	7	6	24	19	5	66
North West	18	20	17	68	53	15	190

Number of landlords by characteristic, thousands

Source: Capital Economics

Having scaled the landlord sample to reflect the national landlord population, the number of dwellings in each portfolio size band is then calculated for each region. Model results for dwellings are scaled to match the number of properties by portfolio size and by region. The number of private rented dwellings in England in the model totals 4.8 million, in line with the total reported by the Ministry of Housing, Communities & Local Government for 2017.

	Business			Non-business			Total
	1	2 to 4	5+	1	2 to 4	5+	
England	145	475	1,213	549	1,298	1,106	4,786
London	31	101	258	117	276	235	1,017
South East	22	73	187	84	200	170	736
South West	14	47	119	54	128	109	472
East	15	48	122	55	131	111	482
West Midlands	12	40	103	47	110	94	407
East Midlands	12	38	98	44	105	89	386
Yorkshire and the Humber	15	49	124	56	133	113	491
North East	6	20	52	24	56	48	206
North west	18	59	149	68	160	136	589

Number of dwellings by characteristic, thousands

Source: Capital Economics

How the model works

In order to identify the potential impact of the removal of Section 21 on the availability of dwellings and rents in the private rented sector, landlords' responses to two survey questions are used:

- "What would your most likely response to this policy change be?"
- "Which of the following responses would you consider as a result of this policy change?"

Using responses to the two questions allows for the range of potential impacts to be better captured.

The model scales up the survey responses to be representative of the private rented sector in each region. The regions are then summed to give an aggregate response for England.

The survey did not ask the respondents to state the time period over which any action as a result of the policy change would be taken. It is likely that any actions by landlords' would materialise over several years, rather than happen immediately.

Landlords' response	Criteria for quantifying the number and type of landlords and dwellings affected
1: Reduce private rented sector supply	<p>Most likely response : The share of landlords that cited 'exiting the market' or 'reducing the size of my portfolio' as their most likely response to the removal of Section 21 (NLA survey)</p> <p>Would consider reducing supply: The share of landlords that said they would consider 'exiting the market' or 'reducing the size of my portfolio' as a response to the removal of Section 21 (NLA survey)</p> <p>Only those directly affected: The share of tenancies that are ended by a Section 21 notice (NLA survey)</p>
2: Restrict access by benefit recipients	<p>Most likely response: The share of landlords that currently have tenants claiming housing benefit or universal credit that cited 'changing the types of tenants to whom you market your property' or 'being more selective about which tenants you would accept' as their most likely response to the removal of Section 21 (NLA survey)</p>
3: Increase rents	<p>Would consider restrictions: The share of landlords that currently have tenants claiming housing benefit or universal credit that said they would consider 'changing the types of tenants to whom you market your property' or 'being more selective about which tenants you would accept' as a response to the removal of Section 21 (NLA survey)</p> <p>Most likely response: The share of landlords that cited 'increase the amount of rent they charge to any new tenancies' as their most likely response to the removal of Section 21 (NLA survey)</p>
4: Reduce supply, restrict tenant access and increase rents	<p>Would consider increasing rent: The share of landlords that said they would consider 'increase the amount of rent they charge to any new tenancies' as a response to the removal of Section 21 (NLA survey)</p> <p>Business focused respondents only: Only 'business' landlords act in response to the removal of section 21. We have defined 'business landlords' as as those with a primary motivation 'to run a full time property business', 'to supplement income', or that are 'part of a property development/redevelopment venture' (NLA survey)</p>
5: Reduce supply, restrict tenant access and increase rents	<p>Mitigated by reformed court: The share of landlords that said: (i) a reformed court would not nullify their concerns (upper estimate of reform impact) or that (ii) it would not nullify it or only nullify it to a limited extent (lower estimate of reform impact) (NLA survey)</p>

Chapter 4: Impact of the Government's proposals

1. England's private rental market could lose one fifth of its dwellings

If landlords respond to the removal of Section 21 as they have indicated, the private rented dwelling stock in England would be reduced by 960 thousand (20 percent). This result includes those landlords who said they would exit the market and those that said they would reduce the size of their portfolio. The latter assumes that landlords with two to four dwellings and those with more than five dwellings sell two dwellings each.

The picture is relatively consistent across the different regions of the country. The South West region is proportionately the most affected if landlords act as they have indicated, with a 25 percent fall in the number of dwellings. The smallest drops across the regions are in the North East (16%), North West (17%) and West Midlands (17%), where landlords indicated that they were slightly less likely to reduce the size of their portfolio or exit the market completely.

In a more severe scenario where those that said they would consider reducing their portfolio or exiting the market do so, over 1.3 million dwellings would be lost from the private rented sector stock (a reduction of 28 percent).

Meanwhile, if the number of private rented dwellings fell in line with the share of tenancies ended by Section 21 there would be a reduction of 704 thousand nationally, equivalent to fifteen percent of the private rented dwelling stock.

2. Private rented housing availability for benefit claimants could more than halve

According to the Department for Work and Pensions statistics there are 1.3 million households living in private sector accommodation that receive a form of housing benefit or have a housing entitlement within Universal Credit. For our purposes we have assumed that each household occupies one dwelling.

Over 50 percent of respondents to the NLA survey that currently let to these tenants cited their most likely response to the removal of Section 21 as to become more selective about the type of tenants they would accept, or to change the type of tenants to whom they market. This presents a risk that is likely to particularly affect the availability of private rented sector accommodation for low income tenants. If landlords act as indicated, the number of dwellings available to housing benefit or universal credit recipients would fall by 59 percent (771 thousand dwellings). The impact would be felt most strongly in the North East and East of England.

In a more severe scenario where those that said they would consider being more selective or marketing to different potential tenants, around 90 percent of private rented sector dwellings that are home to benefit recipients could be become unavailable to them.

3. Twelve percent of England's dwellings could see their rent increase

Nationally, just over 10 percent of landlords that completed the NLA survey said that their most likely response to the removal of Section 21 would be to increase the level of rent they charge for any new tenancies.

Scaling the survey responses in our model to reflect the national landlord population, the number of dwellings that would see rent increases to any new tenancies if landlords react as they have indicated is around 600 thousand (13 percent of the private rented dwelling stock).

The ability to increase rents and the amount that rents can be raised is driven by market forces in local areas. However, even if only half of the landlords that indicated they would consider increasing the rent they charge as a response to the removal of Section 21 were to do so, the number of dwellings affected would amount to around 1.5 million (31 percent of the stock).

In 'Overcoming the Barriers to Longer Tenancies in the Private Rented Sector', the Government's response to their consultation on longer tenancies, survey results quoted suggest that the average cost to landlords of re-possessing a property was between £1,000 and £5,000, including loss of rental income and legal fees. If we assume that the landlords who increase their rents in response to the removal of Section 21 do so at a level to cover one re-possession every five years, then the average rent for tenants in one of these properties would increase by between £17 and £83 per month.

4. It is possible that only 'business' landlords react to the removal of Section 21

We class landlords as having either a 'business' or 'non-business' motivation for letting property, according to the reason they give in the NLA survey for letting property.

The motivation for letting property may affect the potential response of landlords nationally to the removal of Section 21. Survey responses did not bear this out, with results for business and non-business landlords not differing notably. The similarity of results between the two groups may be due to the fact that landlords that opt to join the NLA, and particularly those that chose to complete the survey, are actively engaged with the letting of their property whether they have a business motivation or not.

However, for the landlord population nationally, those that are running their portfolio as a business may be more actively engaged (or more aware) and more likely to act in response to the removal of Section 21 than their 'non-business' peers. 'Business' landlords comprise 28 percent of all landlords in England and 55 percent of private rented dwelling stock.

As a sensitivity analysis we have assessed the implications on the overall impact of the removal of Section 21 if only 'business' landlords nationally were to act as indicated by business landlords in the survey, while 'non-business' landlords do not react.

If this were the case, the total private rented stock in England could still fall by 293 thousand, 360 thousand dwellings could be made unavailable to benefit recipients and 229 thousand dwellings could be subject to a rent increase.

	Reduction in dwelling stock	Tenant restrictions	Rent increase
England	293	360	229
London	53	78	41
South East	42	49	34
South West	31	34	22
East	36	30	21
West Midlands	22	31	22
East Midlands	24	26	22
Yorkshire and the Humber	34	36	31
North East	19	22	3
North west	32	56	33

Number of dwellings affected by removal of Section 21 if only 'engaged' landlords act, thousands

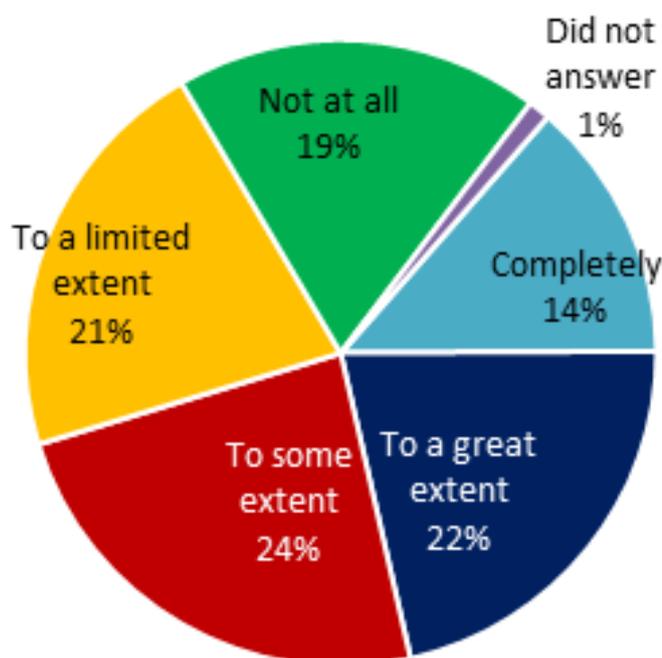
Sources: Capital Economics and National Landlords Association

5. How can the Government mitigate these impacts?

In response to the government consultation on barriers to longer tenancies, the majority of landlords stated that the difficulty in gaining possession of a property through the court system is the main obstacle. Over 40 percent of landlords cited 'a more efficient process to remove a bad tenant or recover property if needed' as the most important factor in encouraging them to offer longer tenancies.

The government consultation on the abolition of ASTs and Section 21 has proposed adding new grounds to Section 8. The Government is also pursuing a Courts and Tribunal Service Possession Reform Programme, which would digitise the court process, and is reviewing a call for evidence on considering the case for a housing court.

The NLA survey of landlords suggests that a reformed court which is faster and less costly could significantly reduce the impact of removing Section 21. Overall, around 60 percent of landlords surveyed said that a reformed court process involving faster processing times and lower costs would nullify their concerns about the removal of section 21 'completely', 'to a great extent' or 'to some extent'. Meanwhile, around 40 percent said it would not nullify their concerns at all or only nullify them 'to a limited extent'. There was a negligible difference between the responses of 'business' and 'non-business' landlords.



Share of landlords identifying the extent to which a reformed court process involving faster processing times and lower costs would nullify any concerns about the removal of Section 21, percent

Sources: Capital Economics and National Landlords Association

We have modelled two scenarios of the impact of the removal of Section 21 with a reformed court, giving us a range for the scale of potential impacts. In one scenario we assume that only the landlords who answered 'not at all' or 'to a limited extent' in each region react to the removal of Section 21. In another scenario we assume that only those landlords that answered 'not at all' react, with the others satisfied enough with the reforms to not change their behaviour. Nationally, introducing a reformed court process alongside the removal of Section 21 could:

- Reduce the fall in private rented sector supply from 963 thousand to between 186 and 388 thousand
- Reduce the fall in the number of dwellings available to benefit recipients from 771 thousand to between 135 thousand and 301 thousand
- Reduce the fall in the number of dwellings facing rent increases as a result of the removal of Section 21 from 600 thousand to between 111 and 238 thousand

	Reduction in dwelling stock		Tenant restrictions		Rent increase	
	Without reformed court	With reformed court	Without reformed court	With reformed court	Without reformed court	With reformed court
England	963	186-388	771	135-301	601	111-238
London	189	37-79	162	29-66	124	24-51
South East	156	31-67	105	19-44	71	14-30
South West	118	23-49	68	12-27	52	9-21
East	103	17-38	71	11-25	64	10-23
West Midlands	68	12-27	69	11-26	63	10-25
East Midlands	83	19-35	55	11-22	52	11-21
Yorkshire and the Humber	115	22-40	76	13-25	79	14-27
North East	34	7-12	51	10-17	17	4-6
North West	97	18-43	117	20-50	80	14-35

Number of dwellings affected by removal of Section 21 with and without court reforms, thousands

Source: Capital Economics

Recommendations

The Government's proposal to abolish Section 21 and remove the assured shorthold tenancy regime from the Housing Act 1988 will have an impact on the number of homes available to rent to tenants, and on their ability to agree a tenancy, particularly for those tenants who are seen to present a 'riskier' profile.

The Government should consider carefully the impact that this change will have on the supply of homes.

If the Government intends to proceed with this policy, they must introduce fundamental reform of the court process before making assured tenancies the default model in England. Unless, and until, these changes are implemented, any reform of Section 21 will risk a significant reduction in homes to rent – of up to 20 percent. Furthermore, the proportion of homes available to tenants in receipt of benefits will fall by up to 59 percent as landlords become more selective about the tenants they will accept.

Reform involves not just review of the Section 8 grounds, but also more fundamentally resourcing the courts fully, so that they are able to manage the volume of cases they will hear in a timely manner.

In addition, landlords need confidence in the consistency of the courts' decisions. This would involve the establishment of a housing court or tribunal as a best-case scenario, provided that this is fully resourced and that it does not reduce the access to justice.

As an intermediate measure, the Government should ensure that specialist judges hear housing cases in the county courts. This would negate the need for some of the capital expenditure involved in establishing a housing court, whilst providing more confidence that the courts have a full understanding of the nuances of housing law, and of the nature of the sector.

The Government should recognise the significant cost of repossession to landlords and seek to minimise this where possible. This could include considering the value of introducing a tribunal system for all housing cases, as in Scotland. It is free for landlords and tenants to access the tribunal, and the use of a tribunal reduces the need for paid legal representation.

Finally, the Government should also improve cooperation between departments to mitigate some of the risks of this approach. The Ministry of Housing, Communities and Local Government (MHCLG) needs the support of both the Ministry of Justice and HM Treasury to realise ambitious court reform.

MHCLG should also improve coordination with the Department for Work and Pensions to ensure that the Universal Credit (UC) system and process supports tenants to sustain tenancies, rather than risking rent arrears and late payments, particularly when tenants are moved onto UC. Increasing landlord confidence in the system will help to reduce the perception of risk associated with tenants in receipt of benefits.