

Annex 2: The ‘London Model’: a blueprint for private rented sector tenancy reform

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1. Introduction

- 1.1. The Mayor recognises that, as demand for London’s private rented sector has grown in recent years, the sector has become less dominated by relatively mobile groups like students, migrant workers, and young graduates who live in this tenure for a limited period. It is increasingly becoming a more long-term tenure, including for older Londoners and those raising families. For this to be sustainable, the security of private renting must be improved. The Mayor wants to explore options for a new tenancy model for London’s private rented sector, whereby responsible landlords can easily gain possession of properties for legitimate reasons, and tenants have the right to greater stability and security in their homes.
- 1.2. London’s existing model of tenancy regulation has not kept pace with the city’s rapidly changing and expanding private rented sector. The current system fails to offer enough security and stability to tenants. This has been broadly recognised by all the main political parties, most recently by the Government in their longer tenancies consultation.
- 1.3. Although more can be done to increase the supply of high quality rented homes for those in the private sector – for instance through build-to-rent schemes and the Mayor’s London Living Rent programme – only Government has the power to help those living in the existing private rented sector. It is vital that the housing needs of private renters are addressed by improving the tenure they live in, rather than simply trying to give them more options to leave it.
- 1.4. The Mayor’s work to address standards and conditions in rented housing, and to tackle up-front costs, is set out in his London Housing Strategy and includes initiatives such as his Private Rented Sector Partnership, his Rogue Landlord and Agent Checker, and his work on tenancy deposit loans. However, the root of many of the problems experienced by renters in England and Wales is the weak tenancy rights they are subject to, compared to private renters in most comparable cities around the world and even other parts of the United Kingdom.
- 1.5. For this reason, the Mayor has committed to creating a comprehensive blueprint of how the private rented sector could be reformed in England and Wales. Though he does not have the powers to implement such proposals himself, the size of London’s private rented sector and the fact that many of the worst problems in the sector are concentrated in London gives the Mayor a clear mandate to address this issue.
- 1.6. Of the 11 million renters in England and Wales, more than a fifth (2.4 million) live in London according to the Labour Force Survey, and according to recent research by the

Joseph Rowntree Foundation, 62 per cent of all 'no fault' eviction notices are issued in the capital. This shows why a solution to this problem must be developed with London in mind. Most other urban areas in the UK are also experiencing the same issues albeit to a lesser extent. It is appropriate for London to lead the way in developing a model of reform that will benefit renters across the UK.

1.7. Given his lack of powers to implement the new model, the Mayor is seeking to work with Government as well as a wide range of other stakeholders in developing these proposals for a London Model. He will then encourage Government to adopt the proposals set out in the London Model at least for private renters in the capital. Many of the tenets of the London Model would be applicable across the entire UK private rented sector, but of course regional variations in the market would need to be considered further by Government.

2. Open-ended tenancies versus fixed-term tenancies

2.1. The Mayor is pleased to note that Government are inviting views on all options for improving security of tenure as part of their consultation on longer tenancies. The consultation implies a preference for a new three-year minimum-length tenancy to replace existing ASTs. These tenancies would have a six-month break clause that can be exercised by either tenants or landlords, and thereafter the tenancy could be ended by the tenant at any time by giving two months' notice, but by the landlord only after the remaining two-and-a-half years in normal circumstances. It is the Mayor's understanding that the landlord would be restricted from using Section 21 during that period. As set out in Annex 1 government should clarify this point in their response to the consultation.

2.2. As set out in the GLA's detailed response to the proposals in Annex 1, there are many aspects of Government's model that the Mayor supports. In particular, we welcome the principle that tenants should have the right to give notice whenever they wish to, but that landlords could not evict a tenant during the fixed-term unless the tenant had committed a fault, or the landlord had another legitimate ground.

2.3. However, the Mayor disagrees with Government about the value of fixed-term tenancies in the private rented sector. From the tenant's perspective, even a longer fixed-term tenancy presents some of the same problems as existing ASTs. For example, if a problem were to arise in the final year of a three-year tenancy, under the Government's proposals tenants would be in exactly the same position as they are currently with a 12-month AST – unable to enforce their rights due to fear of the landlord refusing to renew the tenancy. The Mayor also wishes to further explore the UK and Scottish Government's approach on 'legitimate reasons' for landlords to regain possession.

2.4. In addition, renters and landlords have both expressed concerns about signing up to a three-year tenancy. Even though some of those concerns may be due to lack of understanding and the unfounded fear of being 'locked in', practically it makes little sense for Government to specify to renters and landlords how long their contractual relationship should last. It would be far easier to communicate the benefits of open ended tenancies, with clear means of exit for both parties, but which otherwise would last as long as needed.

2.5. The Mayor therefore believes that instead of introducing standard three-year tenancies, Government should support open-ended tenancies, whereby tenants can terminate whenever they wish, and the landlord when necessary. Provided a landlord would always

be able to reclaim their property when they reasonably need to, a fixed term serves little to no value either to landlords or tenants. Fixed terms increase admin for the landlord and, ironically, increase uncertainty for tenants in particular.

- 2.6. The Mayor believes that open-ended tenancies, which would see Section 21 removed altogether, would constitute an appropriate rebalancing of the rights between landlord and tenant. Tenants would be able to exercise their rights much more freely – for instance to challenge an unfair rent increase at tribunal and to demand that a landlord make appropriate repairs. At the same time, landlords' position would be protected if significant steps were taken to ensure they can gain possession of their properties effectively and in a timely manner where there is a legitimate reason to do so.
- 2.7. There are a number of impacts associated with introducing open-ended tenancies that would need to be addressed in any proposed set of tenancy reforms. These are set out in more detail in section 4.
- 2.8. The Scottish Government's Private Rented Tenancies Scotland Act 2016 has only recently been implemented but provides the rest of the UK with valuable learning as we consider our own approach. Open-ended tenancies are a key part of the Scottish reforms and have created a two-tier system, whereby Scottish renters enjoy much stronger rights than their English and Welsh counterparts.
- 2.9. The Mayor will scrutinise the Scottish reforms in detail to inform the development of the London Model.

3. The London Model of tenancy reform: headline proposals

- 3.1. The Mayor believes that any model of tenancy reform that is to truly benefit renters and rebalance the relationship between landlord and tenant must contain the three elements set out below.

Replacing the existing Assured Shorthold Tenancy (AST) with open-ended tenancies

- 3.2. First, the use of short, fixed-term ASTs is no longer appropriate for an increasingly diverse population of renters, many of whom have much longer-term housing needs. Renters in London, and indeed other parts of England and Wales, need an entirely new type of open-ended tenancy which guarantees them security of tenure until there is a good reason for the tenancy to end. These tenancies should allow renters to end the tenancy whenever they wish to, providing they give appropriate notice to help the landlord prevent void periods. The Mayor will work with buy-to-let lenders to understand how such provisions are accounted for in Scotland to support further investment in the sector.

Ending 'no fault' evictions

- 3.3. Second, as set out in section two of this annex, the Mayor believes strongly that open-ended tenancies, coupled with strong protections from unnecessary evictions are the best solution to improve security of tenure for private renters. The use of 'no fault' evictions fundamentally undermines renters' security of tenure and their ability to enforce their existing rights. This aspect of the Housing Act 1988 must be amended or scrapped accordingly, and the processes which have led landlords to become dependent on Section 21 must be reformed.

Protecting the rights of landlords

3.4. Third, 'no fault' evictions cannot be scrapped in isolation. There are valid reasons why landlords depend on Section 21, even when 'tenant fault' can be proved. Court processes to allow 'tenant fault' Section 8 evictions to take place are slow and inefficient and in desperate need of reform. This is an essential part of reforming private rented sector tenancies and must happen to ensure the sector can continue to function. Landlords should have an effective and timely means to regain possession of their properties where there is a legitimate reason to do so, and the Mayor will work with expert stakeholders to explore how this can best be taken forward.

4. Areas for further consideration

4.1. The three main elements of the Mayor's London Model, outlined above, will help to hand more power back to renters whilst protecting the interests of landlords. However, all three involve complex issues and trade-offs that require further in-depth consideration beyond the eight weeks allowed by Government's current consultation.

4.2. The GLA has already begun to work through these issues in more detail and looks forward to working with Government and other key stakeholders to test our thinking and proposals.

4.3. These issues include, but are not limited to:

- *Break clauses:* Under the Scottish model of tenure reform there are no break clauses for landlords or tenants. The Mayor will look at the experience in other countries and is keen to ensure break clauses do not become Section 21 by another name.
- *New possession grounds:* There are a range of legitimate reasons why a landlord may need to gain possession of their property even though the tenant has committed no fault. Further exploration is needed of exactly what these grounds should be. Some suggestions are outlined in the government's consultation, as well as the Scottish government's approach. Further consideration is needed to ensure these are correct, and indeed that existing Section 8 grounds are fit for purpose.
- *Preventing loopholes:* It is vital that provisions to allow landlords to reclaim their property even if a tenant has done nothing wrong do not become loopholes. Appropriate safeguards or deterrents must be considered.
- *Mitigating disruption to tenants:* Regardless of whether the reason is legitimate, 'no tenant fault' evictions will still cause renters to lose their homes and suffer significant disruption. If no steps are taken to address this issue or to close the loopholes referred to above any new measures will represent little progress on the status quo.
- *Dispute resolution, redress and tenancy sustainment:* Preventing tenancies from ending unnecessarily due to resolvable disputes is as important as addressing evictions procedures. Effective dispute resolution would also reduce pressure on the courts. Government has already consulted on this as part of the proposals to introduce a single housing ombudsman. It is essential the detail is developed in tandem with new proposals for tenure reform and possible court reform.

- *Notice periods:* Appropriate notice periods on the part of both the tenant and the landlord are key to ensuring open-ended tenancies work effectively. Various options are suggested by the Government's longer tenancies consultation, the Scottish Government approach and international examples.
- *Protecting the safety net:* Ending or substantially reforming 'no fault' evictions could have a knock-on impact on many services homeless and vulnerable people rely on, such as temporary accommodation and hostel provision. The Mayor will explore how such services can be protected.
- *Helping vulnerable renters:* Recent research suggests that one of the reasons 'no fault' evictions are so common in London is due the volume of renters struggling to pay rent due to problems with housing benefit or universal credit. In addition, renters in receipt of welfare benefits are routinely discriminated against. The Mayor is keen to understand how tenure reform could better support such renters.
- *Short-term lets and student accommodation:* The Mayor recognises that there are types of accommodation for which open-ended tenancies may not be appropriate. Consideration is needed to ensure such accommodation can continue to operate, whilst preventing loopholes and ensuring such renters are not left without protection.
- *Short-term visas and employment contracts:* In general, open-ended tenancies will provide for renters who only need a short-term tenancy, since it is up to the tenant to decide when to leave. However, further work is needed to ensure those with short term visas or employment contracts are not frozen out of the market or left with poor choices.

4.4. Stronger security for renters is essential to improving the private rented sector, but with around a quarter of privately-renting households in London spending more than half of their income on rent (English Housing Survey data, 2015/16), the biggest challenge facing private renters continues to be its unaffordability.

4.5. Security and affordability are related – a strong system of security of tenure would likely have a stabilising effect on rents, and would be needed to underpin measures to stabilise or control rents. The Mayor will therefore consider what measures would limit unacceptable rent increases without negatively impacting on housing supply, and how they could work in the capital, once the new London Model is complete.

4.6. The Mayor is aware that although limiting rent increases or making them more predictable would give certainty, doing so would not address the problem of rents already being unaffordable to many. Addressing existing rent levels would be a truly radical approach requiring significant investment, as well as fiscal and legislative changes, to ensure that renters, landlords, and housing supply were protected from adverse effects.

5. Next steps

5.1. The Mayor has now set out the headline proposals for his London Model of tenure reform. In the coming months the Mayor will set out a process for engaging with a wide range of

stakeholders, including representatives of both renters and landlords. The Mayor will refine and extend these headline proposals based on feedback, build support for the Mayor's approach, and create a workable set of recommendations for Government.

- 5.2. The Mayor believes this project will support Government's own consultation process. He encourages Government to engage fully with discussions around the London Model to help shape and improve the proposals, and to inform their own next steps once the longer tenancies consultation is concluded.
- 5.3. Once the London Model work is complete the Mayor hopes to work closely with Government to implement this ambitious approach and transform private renting from a tenure of last resort to one fit for the 21st century.