



Ryan Bourne: The Government is wrong to end no fault eviction. The change will mean fewer landlords and renter homes.

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February 9, 2022

To say the Levelling Up White Paper was broad in scope is an understatement. We expected details of how the Government would seek to reduce geographic economic inequalities. We were not anticipating a history of cities since 7000 BC, nor the bundling of policies as seemingly unrelated as ending “no fault evictions” in the private rental market.

This latter idea is not new, of course. Back in 2019, the late James Brokenshire announced “the biggest change to the private rental sector in a generation” as the government pledged to eliminate Section 21 of the 1988 Housing Act. Currently, landlords can remove tenants and repossess properties with just two months’ notice after a tenancy’s fixed-term ends.

But that means “millions of responsible tenants could still be uprooted by their landlord with little notice, and often little justification,” Theresa May claimed back then. Following a consultation and manifesto commitment, the Government now appears to finally be ready to deliver the policy under the “levelling up” banner.

And it sounds like a reasonable idea. Who could object to more security for tenants if the reform is coupled with exemptions for landlords seeking to sell property or wanting to move in themselves? Well, a moment’s reflection indicates that this really creates effective indefinite tenancies as standard. That’s a significant reform in principle, but the worst form of gesture politics in practice – a symbolic way for politicians to show that they care about renters’ plight that substitutes for the urgent need for more homes.

Putting aside Covid-19 emergency measures, Section 21 today does mean landlords can evict tenants without justification after the tenancy contract’s “fixed term.” Unless you wilfully damage the property, refuse to pay rent, or engage in some other breach of contract, tenants are “protected” during their contracted term, which is usually one year. Section 21 essentially codifies landlord property rights beyond that, confirming it is in landlords’ gift to decide whether and how long to continue any open-ended tenancy deal, provided the landlord follows the set-out process and gives tenants two months’ notice.

With a near doubling of the proportion of housing tenures that are private rentals in recent decades and with more families and older households now renting, tenants are becoming an increasingly powerful lobby. And why wouldn't they demand more security, if they believe it will come at landlords' expense? For most people it's not nice knowing you can be evicted with just eight weeks notice. Rental campaigners' message has therefore been simple: let landlords bear more risk!

Would abolishing Section 21 be a big win for tenants, as campaign groups imply? I doubt it. What we have here is an example of people wanting more of something – security – without being willing to pay for it. In these scenarios, basic economics tells us that mandating benefits will lead to a waterbed effect of other margins adjusting, as landlords seek to protect themselves against the new higher risks of lock-in that such tenancies entail.

One consequence would be more extensive vetting of tenants or renting to friends and family. The LSE's Christine Whitehead believes those on housing benefit would find it hardest to gain access to properties. In short, landlords would seek to insure themselves against an inability to remove certain tenants. One way to avoid being stuck with tenants who won't budge is to more carefully select them upfront.

A second potential “margin of adjustment” is landlords using rent hikes to enforce economic evictions. If someone won't move, why not jack up the rent and force them out? Indeed, this policy would inevitably heighten calls for rent controls outside of the fixed term to avoid such a “loophole”, with all the destructive consequences that state attempts to control rental prices bring.

But the third and biggest impact of this semi-nationalisation of the private rent sector will surely just be fewer landlords willing to enter and make property available overall.

The birth of fixed-term “assured short-hold tenancies” from the late-80s onwards led to a huge growth of individual landlords owning a small number of properties. In London, in particular, many small-scale landlords rent out basement flats, rooms, or unused properties, with their decision to do so often a finely balanced one.

Without Section 21, they would actually enjoy less control over a tenant's departure than the tenant themselves. Given the norm of short-term tenancies, we must presume landlords desire the current flexibility. Though the Government has promised a quid pro quo of broader, clearer Section 8 alternative procedures for reclaiming properties for certain reasons, landlords have long bemoaned how this route entails greater evidentiary barriers and the potential for large legal costs. Whatever the eventual details of these proposals, marginal landlords will face higher risks if Section 21 is abolished.

And that means we will see fewer landlords putting rental property onto the market, particularly if the measure is perceived as the thin end of the wedge for rent regulation. If you're risk averse and looking to make a modest rental income, you might be better off considering AirBnB, or other forms of investment. Exits will push overall market rents up somewhat overall as the availability of private rented accommodation is reduced.

Who will suffer most from this? Well, although renters are becoming older, they still tend overall to be younger, more mobile, and without much in the way of savings compared to the rest of the population. Those harmed most by limited rental options will be the poorest, those without

deposits for owner-occupied housing, and those for whom accessing new private rental accommodation is a route to a better job or life. The beneficiaries will be those who want to stay in a property for years and years.

This really highlights why fiddling with landlord-tenant relations is no alternative to major planning reform. In a world with an abundant supply of homes of all tenure, landlords would have to be more discerning about deciding to eject tenants. Even if their tenant was a pain in the butt, a world of abundant properties would mean greater vacancy risk if a landlord opted to remove them.

That, sadly, is not the world we live in. High housing costs and an unresponsive supply of homes in areas where people want to live has created much resentment to those who do own properties and rent them out.

Well-intentioned campaigners also mistake the trigger of no fault evictions for the broader structural causes of homelessness. And now, unwilling to deliver really substantive planning reform, the Conservatives even claim that fiddling about redistributing risks between tenants and landlords represents a means of “levelling up.”

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