

## **Reforming the Private Rented Sector – Z2K Evidence (August 2022)**

1. Zacchaeus 2000 Trust (Z2K) is a London-based anti-poverty charity supporting people struggling with their Social Security benefits or threatened with homelessness. Each year, we provide holistic advice and assistance to around 1,000 people. We also use the evidence of their experience to campaign for change. As part of this work, Z2K has supported hundreds of people living at the bottom end of the Private Rented Sector (PRS), especially since the welfare reform agenda began to cut Local Housing Allowance (LHA) rates of Housing Benefit for tenants in the PRS. Between 2013 and 2018, with the support of The Oak Foundation and Westminster City Council, we helped broker PRS tenancies for over 300 people who were homeless or threatened with homelessness.
2. While much of the PRS in London does provide a decent-quality home, it is also true that much of it is of sub-standard physical quality, and tenants also suffer at the hands of poor quality housing management. Even more worryingly, much of it is also increasingly unaffordable, especially to those on low incomes or in receipt of Social Security benefits.
3. This experience of the precarious nature of the PRS led us to back Generation Rent's call for the abolition of Section 21 "no fault" evictions from its outset. We were delighted when the Theresa May's Government agreed to implement this measure and when Boris Johnson's Government included it in its first Queen's Speech in 2020. The covid-19 pandemic inevitably delayed the legislation, but like many of our clients who eagerly await the protection this legislation will provide, we are frustrated that a Bill has still not been laid in Parliament.
4. In 2019, Nationwide Foundation began funding Z2K's Tenant Voice project, which was designed to give opportunities for our clients living in the PRS to involve themselves in campaigns for reform of the sector. Despite the pandemic, a group of our clients continued to meet online to discuss their experiences of lockdown and self-isolation in poor-quality PRS properties, and what needs to change for the future. This resulted in a creative media campaign #LifeAfterLockdown and the production of a manifesto. More recently, Z2K has become an active member of the Renters' Reform Coalition (RRC).
5. In July 2022, Z2K convened a group of our PRS clients to discuss the White Paper. This submission reflects their views on the proposals within it, as well as some of Z2K's own views.

### **Will the Government's White Paper proposals result in a fairer private rented sector (PRS)?**

6. The 12 key measures in the White Paper do not go far enough to address Z2K's desire to see fundamental reform of the PRS, but if implemented, they will undoubtedly result in a fairer PRS than currently exists.
7. In particular, after more than three decades of deregulation, the removal of Section 21 "no fault" evictions makes the balance between landlords' interests and tenants' interests significantly fairer. Z2K clients have identified this as the most urgent area for reform – the experiences shared over the three years of our Tenant Voice Project demonstrate how Section 21 underpins the current imbalance between tenants and landlords. This in turn drives many clients to feel there will only ever be a negative outcome if they request repairs,

or challenge rent increases or inappropriate management practices. One of our clients, Okwuchi,\* was served a Section 21 notice just three months after she moved into her home:

*"I was shocked because I had just barely moved in and things were not in place in the house. There was a lot going on, a lot I wanted them to do – the cockroaches, the boiler. And then I got an eviction...I thought that maybe it was because I was asking them for things to get done they gave me the eviction."*

8. At its worst, requesting repairs can mean eviction and a struggle to secure an alternative home. As a result, clients have told us that they put up with unresolved repairs, or paid for repairs themselves. Even if a landlord might be willing to make repairs, the prospect of a Section 21 eviction creates a 'chilling effect', where it feels safer not to find out.
9. We know from our own records that many of the 300 people who were supported by our PRS Access Scheme had been through a Section 21 eviction in the past. Many more had been told that would happen if they didn't move out voluntarily – but if they did, they would then be at risk of being found 'intentionally homeless' if they approach their council for support with housing. Several of those at our White Paper workshop described their own experience of the Section 21 process. Others had family or friends who had been through it, and that had been enough to shape their engagement with their landlord. All of them felt the end of Section 21 would lift a shadow looming over them, though it is fair to say some remain sceptical it will ever actually happen and that the other measures in this package go far enough.
10. There was also strong support for the PRS Property Portal – an updated version of the national Registration Scheme first proposed by the independent "Rugg Review" in 2008 but never implemented. Z2K is pleased that a regulatory approach is now finally back in favour, but over a decade has been wasted in which much could have been done to bring the PRS up to a better standard.

**What do the proposals in the White Paper and other recent reforms indicate about the role the Government envisages the PRS playing in providing housing nationally?**

11. After a generation of rocketing house-price inflation in many parts of the country and persistent under-investment in new social housing, the PRS has again become a core part of the UK's housing system. It is no longer just a place for students, those on low incomes who are ineligible for scarce social housing, and young professionals saving to buy their first home. Hundreds of thousands of families are spending years in the PRS, as are older people who have spent their whole working life renting privately.
12. Z2K acknowledges that, at its best, the PRS can provide the flexibility and decent quality housing people need. Rarely these days, however, is it an affordable option, particularly in areas of high demand like London. Surveys have repeatedly shown that people in these areas are often paying half their salary in rent. This leaves them little for other living costs, and delays if not completely blocks their chance of saving to buy a home. Our key concern, however, is for those who are out of work or in very low-paid work.
13. Z2K was founded in the early 1990s, and so we recall the former Housing Minister, Sir George Young's comment that "*Housing Benefit would take the strain*" when responding to criticisms that deregulation would result in unaffordable rent rises. That was never entirely

the case with Local Reference Rents in the 1990s and 2000s, nor with the arrival of Local Housing Allowance in 2008. It is since 2010, however, that the situation has worsened.

14. The series of caps, cuts and freezes since then has left hundreds of thousands of tenants facing increased shortfalls between the rent they owe and the HB/LHA/UC they get. This approach has driven many into poverty, forced some to accept properties in states of disrepair, and left others unable to find anywhere to live at all. If the Government intends the PRS to continue to play such a wide-ranging role then it must accept the price tag for doing so. We say more about this below.

#### **Have the Government's announcements already led to any changes in behaviour in the PRS?**

15. Z2K has not itself noted any change in the behaviour of private landlords in advance of legislation coming into effect. However, several clients at our recent group session were worried their landlord might evict them before the legislation comes into effect.

#### **Do the proposals for reforming tenancies, including the abolition of Section 21, strike the right balance between protecting tenants from unfair eviction and allowing landlords to take possession of their properties in reasonable circumstances?**

16. Like other members of the RRC, Z2K believes the proposals as currently drafted offer a potential loophole for unscrupulous landlords to evict tenants even without Section 21 by claiming they intend to live in it themselves. We fully support the RRC's call for this and other loopholes to be closed as far as realistically possible.

#### **How easily will tenants be able to challenge unfair rent increases under the proposals?**

17. Z2K welcomes the inclusion of a measure supposedly designed to enable tenants to challenge landlords/agents who use unfair rent increases to evict them once the power to use Section 21 is ended. However, we are not persuaded this goes far enough, and we know that many people are unwilling or unable to challenge a landlord's decision to increase rent. More generally, we believe this Bill should finally take a decisive step towards addressing the increasing unaffordability of PRS tenancies in areas of high demand, rather than placing the onus on a tenant to challenge some types of increases. Rent increases should be capped annually.
18. When it was first introduced, LHA was set at the median of market rents for that size of property in one of 160 Broad Rental Markets Areas (BRMAs). Under the Coalition Government LHA rates were first "capped" and then lowered to the 30<sup>th</sup> percentile. Given the high demand for housing in many parts of the country and the almost non-existent rights of private tenants, this inevitably led to increased shortfalls between the rent tenants owed and the money they got to pay it. When challenged, ministers claimed their Discretionary Housing Payment (DHP) funding would ensure tenants didn't fall into arrears and face eviction and homelessness. However, DHP funding was barely a fraction of the sum saved by the LHA cuts, and it was also needed to help tenants affected by other policies. In 2020/21, £67m of DHP awards were related to the Benefit Cap or the Bedroom Tax – almost half of all awards made that year.<sup>1</sup>

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<sup>1</sup> <https://www.gov.uk/government/statistics/use-of-discretionary-housing-payments-financial-year-2021-to-2022>

19. Despite clear evidence of the impact these caps and real-terms cuts were having in terms of increased evictions and homelessness, LHA rates were then frozen for four years from 2016. By 2020, some rates were nearer the 20<sup>th</sup> percentile of local rents than the 30<sup>th</sup>.<sup>2</sup> Researchers have found that in some BRMAs as little as five per cent of the homes available to rent were within the LHA rate.<sup>3</sup> It was therefore very welcome that the Emergency Budget in March 2020 returned LHA rates to the 30<sup>th</sup> percentile. This ensured that many who lost their jobs in the pandemic had their rent covered, or at least only faced relatively small shortfalls.
20. Since then, however, LHA rates have again been frozen in 2021/22 and 2022/23,<sup>4</sup> while Government funding for DHPs has been cut from £180 million in 2020/21 to £140 million in 2021/22<sup>5</sup> and £100 million in 2022/23.<sup>6</sup> Local authorities face an invidious choice between helping half the number of tenants or providing just half the level of support to each of them. DWP's Equality Impact Assessments (EqIA) of these latest freezes on LHA rates are incredibly superficial<sup>7</sup> and it failed to even carry out an EqIA on the cut to DHP funding.<sup>8</sup> In April 2020, after the Emergency Budget, 47% of private tenants receiving Universal Credit were in properties where the LHA covered the rent, up from 32% in February 2020. But by May 2022, this had already fallen back to 42%.
21. Overall therefore, Z2K feels the forthcoming legislation will not improve the experience of private tenants unless there is also a commitment to bring LHA rates and the Shared Accommodation Rate (SAR) for under-35s much closer into line with average local market rents – and to keep them there.

#### **Does the PRS need its own ombudsman? If so, what powers should it have?**

22. Ombudsmen in the public sector have a mixed record. On balance, Z2K believes the Local Government & Social Care Ombudsman (LGSCO) does a good job. It reaches decisions we can understand even where we disagree, and it does so relatively quickly. By contrast, we feel there have been problems with the Housing Ombudsman Service for over a decade. These are partly the result of the requirement for the involvement of a “Designated Person” to refer the complaint, and the Ombudsman’s refusal to question or challenge the information social landlords provide in response to complaints. The biggest problem of all is timeliness. Despite the assurances given by its new leadership team, many cases still take up to a year to reach a determination. We feel strongly that justice delayed is justice denied. This is even more important to those without proper security of tenure.
23. Z2K would want any PRS Ombudsman that is set up follow the LGSCO model and standards of performance rather than the Housing Ombudsman’s current approach. We would also

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<sup>2</sup> <https://www.crisis.org.uk/about-us/the-crisis-blog/cover-the-cost-how-gaps-in-local-housing-allowance-rates-and-rent-levels-are-impacting-on-homelessness/>

<sup>3</sup> <https://www.cih.org/media/sdbhwzjp/missing-the-target-final-290818.pdf>

<sup>4</sup> <https://bylinetimes.com/2021/12/06/housing-benefit-freeze-to-leave-low-income-private-renters-out-in-the-cold/>

<sup>5</sup> <https://www.gov.uk/government/publications/housing-benefit-subsidy-circulars-2021/s42021-discretionary-housing-payments-government-contribution-for-english-and-welsh-local-authorities>

<sup>6</sup> <https://www.gov.uk/government/publications/housing-benefit-subsidy-circulars-2022/s12022-discretionary-housing-payment-government-contribution-for-english-and-welsh-local-authorities-for-financial-year-ending-march-2023>

<sup>7</sup> <https://depositedpapers.parliament.uk/depositedpaper/2284213/files>

<sup>8</sup> <https://questions-statements.parliament.uk/written-questions/detail/2022-03-14/139256>

want any PRS Ombudsman to be an option for quick and fair resolution of complaints, not as an alternative or a mandatory first step before a legal challenge in the courts.

24. Any PRS Ombudsman should have the power to order repairs are carried out, order changes to management practices, and order compensation payments.

**Will the proposals result in more disputes ending up in the courts? If so, will the proposals for speeding up the courts service suffice?**

25. Z2K is not best placed to comment here, but as we say in paragraph 22, justice delayed is justice denied. Timeliness of dispute resolution is a crucial part of tenants' rights existing in practice, not just on paper.

**What should be included in the new decent homes standard and how easily could it be enforced?**

26. Z2K believes the Decent Homes Standard (DHS) drove significant improvement in the quality of social housing in the years up to 2010. It led to the installation of new kitchens and bathrooms in hundreds of thousands of flats which still had their original post-War amenities. The best local authorities and housing associations have moved on to carry out many long-overdue external and structural works, which provide benefit to the homes within.
27. However, revelations about appalling mismanagement of repairs by some social landlords shows that on its own the DHS doesn't guarantee tenants actually live in a decent home. In particular, prolonged problems of cold, damp and water penetration are often even more serious than the age of a bath or kitchen unit. In our observation, these issues are even more prevalent in the PRS than they are in social housing, especially that part of the PRS that is accessible to tenants receiving Social Security benefits. The tenants at our July workshop also highlighted the need for secure doors and windows, properly-sized bedrooms, especially in shared housing, and an obligation on landlords to deal with pest infestations.
28. The Government's commitment in the White Paper to halve the number of non-decent PRS homes is therefore welcome. The clients at our group session were pleasantly surprised to hear about it. However, several felt the deadline of 2030 for this to happen is unreasonable. Z2K shares that view. It will almost certainly leave large numbers of properties in a non-decent condition more than a decade from now (yet continuing to generate considerable rent for the owners). We see no reason why all homes in the PRS should not be brought up to the DHS in the next decade – the same timeline as was broadly achieved in social housing. The deadline for non-decency to be halved should also be brought forward.
29. This will not be easily enforced. It will demand a significant increase in the inspection capacity of local authority Environmental Health Officers (EHOs). Our engagement with Westminster City Council's EHO Team assures us they have the knowledge and skill to enforce the various licensing regimes and the Housing Health & Safety Rating System (HHSRS). However, they are spread much too thinly. If anything, these teams seem to be stretched even more thinly in other London Boroughs we observe. The burden of the additional work the DHS in the PRS will entail must not be imposed on local authorities. It should be fully funded by central Government. These costs should be calculated transparently and the grants resulting should be set over the medium-term and ring-fenced for this inspection and enforcement activity.

**How enforceable are the proposals to make it illegal for landlords to have blanket bans on letting to people on benefits or with children? What other groups, if any, should be protected from blanket bans?**

30. Z2K welcomes proposals aimed at preventing landlords from discriminating against people on benefits or with children, but we have concerns about how enforceable this will be. Particularly in areas with high demand, landlords are likely to be able to choose between multiple tenants (some on benefits or with children, and some not), and there is no requirement for a private landlord to provide reasons for refusing or withdrawing an offer of tenancy. This will inevitably make enforcement extremely challenging except where a landlord explicitly states their policy is not to let to those groups.

31. Alongside the RRC, Z2K also believes government must abolish the Right to Rent scheme. While not a 'blanket ban', it has been shown to lead to discrimination on the basis of perceived race and nationality and creates a barrier to accessing housing for migrants and people assumed to be migrants, which can include Black, Asian and minority ethnic British renters without passports.<sup>9 10</sup>

**Overall, what additional pressures will the proposals place on local councils, and how many of these will require new burdens funding?**

32. See paragraph 29

\*Name has been changed to protect the anonymity of our client

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<sup>9</sup> <https://www.icwi.org.uk/passport-please>

<sup>10</sup> <https://www.nrla.org.uk/download?document=1134>