

**Housing
Rights**

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Consultation Response

**Response to the
Department for Communities
Notice to Quit Consultation,
January 2022**

Introduction

Housing Rights is Northern Ireland's leading independent provider of specialist housing advice. For over 50 years we have been helping people to find and keep a home. We believe that prevention is better than the cure, and work to prevent homelessness wherever possible. Housing Rights' policy work is based on the views and experience of the people who contact us for advice and aims to support the identification of evidence based, user informed solutions.

The purpose of Notice to Quit

Either a tenant or a landlord may end a tenancy by giving a Notice to Quit. This provides time for the landlord to make arrangements to find a new tenant and gives the tenant time to find somewhere else to live. The usual length of a private tenancy Notice to Quit in Northern Ireland is the same for tenants and landlords although it is worth noting this was temporarily amended during the Covid emergency.

When a tenant gives Notice to Quit to a landlord it is normally because they have secured alternative accommodation whereas when a landlord gives a tenant a Notice to Quit that tenant then has to secure suitable affordable alternative accommodation which can be challenging in terms of supply and affordability. Therefore, the Department considers that the Notice to Quit a landlord is required to give a tenant should be longer than the notice that a tenant is required to give.

The Department is particularly interested in views on the length of Notice to Quit that landlords should give to tenants.

1. Do you agree that the length of notices to quit for landlord and tenants should be different?
 Yes
 No

Given the imbalance of supply and demand, it is likely that it is easier for a landlord to secure a new tenant than for a tenant to secure a new tenancy. Furthermore, the consequences of failing to secure a new tenancy and risk homelessness are significantly more acute for a tenant than for a landlord who fails to find a new tenant. The impact on low-income households facing affordability issues is heightened as demand for properties at the lower end of the market is particularly acute (*Housing Rights, Falling Behind: Exploring the gap between Local Housing Allowance and the availability of affordable private rented accommodation in Northern Ireland, 2019*).

Housing Rights therefore believes that it is appropriate for the length of notice

required by tenants to be shorter than that required by landlords, and indeed that the proposal in the Private Tenancies Bill to require 4 weeks' notice from tenants to leave a tenancy of 10 years or less is a suitable length of notice and should not be extended beyond this.

Indeed, Housing Rights is concerned that, should a longer notice period be required by tenants, this could stand as an obstacle for tenants accepting a social tenancy or another private tenancy as neither would likely be held for the extended period of time (there is generally an expectation that tenancies will commence and rent become payable as soon as possible). Furthermore, there is no overlap payment available for people claiming Universal Credit Housing Costs and the overlap payment under Housing Benefit will only cover 4 weeks' rent. An extension of the notice period required by tenants could also further limit the ability of a tenant in an unsuitable property to leave and find another home. These additional barriers, faced by tenants and not by landlords, further emphasise why the length of the Notice to Quit period required by tenants should be shorter.

That Notice to Quit should vary depending on the length of time in the tenancy

The Department considers that the longer a tenant has lived in a private tenancy the more disruption a Notice to Quit will cause as they try to secure suitable alternative accommodation.

2. Do you agree that Notices to Quit should vary depending on the length of the tenancy?
- Yes
 - No

In Housing Rights view a Notice to Quit has the potential to cause significant disruption for any private tenant, as they try to secure suitable alternative accommodation, regardless of the length of their tenancy. As outlined below, **in our view it would therefore be preferable for all private tenants to be given 12 weeks' Notice to Quit by their landlord**, however we accept that principles of tenancy law provide increased rights for tenancies over one year. It may therefore be appropriate to consider for example a notice period which is longer than 4 weeks but less than 12 weeks for tenancies which are under a year (see further detail in response to Q3 below).

Tenancies less than 12 months

The Department proposes to retain a 4-week Notice to Quit for tenancies of up to a year. There are various reasons for this, including:

- Most tenancies start with a one-year contract, so while a Notice to Quit being issued is good practice, the end date of the tenancy is specified from the beginning. The statutory Notice to Quit only applies where there is no written contract or the contract does not contain a fixed term.
 - Tenants require short term contracts for a variety of reasons, and these are required to be flexible. The Department does not want to overly constrain the supply of such tenancies, given the need for them.
3. Do you agree that the length of notice for shorter term tenancies of up to 12 months should remain at 4 weeks? If no, what length do you think it should be, and what information can you provide in support of this?

Yes

No

If no, what length do you think it should be, and what information can you provide?

Notice required by landlords

Housing Rights is concerned that 4 weeks remains an insufficient notice period for some tenants, particularly those on low incomes, who have been in a property for 12 months or less, given the barriers to finding and accessing a new private tenancy as outlined below (see Q4). Furthermore, a tenant who has been in a property for under 12 months will have recently paid the various fees and costs associated with moving into a new tenancy which can exacerbate affordability issues.

In our view an extension of the Notice to Quit period for shorter tenancies would not constrain the flexibility of such tenancies but rather ensure that tenants can enjoy the flexibility of a shorter tenancy, alongside the protection of an adequate notice period. Indeed, Housing Rights does not believe that flexibility and security are opposing positions, but rather that both should sit alongside and complement each other.

Furthermore, Housing Rights is concerned that requiring a shorter Notice to Quit period for shorter tenancies could lead to a practice of landlords curtailing tenancies to under 12 months, which may therefore become the default tenancy length in order to circumvent the longer Notice to Quit periods. This would undercut the intention of reforming the private rented sector to provide more secure, longer-term housing.

In our view it would be preferable for all private tenants to be given 12 weeks' notice (the reasons for which are outlined below in Q4). However, we accept that principles of tenancy law provide increased rights for tenancies over one year. It may therefore be appropriate to consider for example a notice period which is longer than 4 weeks but less than 12 weeks for tenancies which are under a year.

Fixed Term Tenancies

Housing Rights notes the Department's comment above that while it is good practice for a landlord to give a tenant a Notice to Quit at the end of a fixed term contract, it is not statutorily required. Rather than this being a reason not to extend the Notice to Quit period for shorter tenancies, **in our view it is a reason to amend the legislation to require that landlords give a Notice to Quit with the requisite number of weeks to expressly indicate that they do not wish to extend a tenancy beyond the fixed term.**

The welcome extension of the Notice to Quit periods in the Private Tenancies Bill heightens the need to ensure this extra protection applies to those in a fixed term tenancy. This is necessary both to avoid an unequal distribution of rights for those within and without a fixed term agreement, and to ensure that landlords cannot circumvent the need to give tenants adequate notice to leave the property by making all of their tenancies fixed term. Furthermore, in specifically including fixed term tenancies within this requirement, the requirements for all actors in the sector will become simpler and easier to understand and will prevent unnecessary disputes and difficulties.

We note that in England, under s21(1) Housing Act 1988, it is explicitly stated that the two-month notice to leave required by landlords applies to fixed term tenancies. In Housing Rights' view, a similar provision in the Private Tenancies Bill would also avoid the ambiguity which arose under the Private Tenancies (Coronavirus Modifications) Act (NI) 2020 as to whether the extended 12-week Notice to Quit period required by landlords applied to fixed term tenancies.

In our view the fact that a Notice to Quit is not currently required by landlords in fixed term tenancies does not therefore negate the need to ensure that tenants in tenancies of one year or less are afforded the protection of an extended notice period.

Notice required by tenants

As noted above. Given the imbalance of supply and demand, it is likely that it is easier for a landlord to secure a new tenant than for a tenant to secure a new tenancy. Furthermore, the consequences of failing to secure a new tenancy and risk homelessness are significantly more acute for a tenant, than for a landlord who fails to find a new tenant. **We therefore believe it is appropriate that the length of notice required by tenants is shorter than that required by landlords, and indeed that the proposal in the Private Tenancies Bill to require 4 weeks' notice from tenants to leave a tenancy of 10 years or less is an appropriate length of notice and should not be extended beyond this.**

Tenancies from 12 months to 10 years in length

The Bill proposes an 8-week Notice to Quit for these tenancies, but it has been suggested that this still may be inadequate for tenants to find alternative suitable accommodation they can afford.

The Department is seeking views on any further extension to the 8 weeks' Notice to Quit contained in the Private Tenancies Bill and if extended whether any exemptions should apply.

4. What do you think the Notice to Quit period that a landlord will be required to give a tenant should be (where the tenancy is between 12 months and 10 years in length)?
- 8 weeks
 - 12 weeks
 - 6 months (26 weeks)

In Housing Rights' client experience, **extending the Notice to Quit period required by landlords to 12 weeks is necessary to provide tenants adequate time to secure alternative accommodation, which is particularly important for low-income private renters who are facing increasing barriers in accessing tenancies** (*Housing Rights, Preventing Homelessness and Sustaining Tenancies in the Private Rented Sector: Scoping Project, 2020*). Indeed, as highlighted by the CIH research accompanying this consultation, low-income households and younger people are particularly affected by barriers to accessing tenancies. For example, being refused PRS accommodation due to being in receipt of benefits or because of their age, or losing out on new tenancies due to not being able to gather the money to pay a deposit and rent in advance within their short notice period.

Low-income private renters also find it difficult to access alternative accommodation because of the lack of supply of tenancies they can afford (*Housing Rights, Falling Behind: Exploring the gap between Local Housing Allowance and the availability of affordable private rented accommodation in Northern Ireland, 2021*). This is of particular concern for families with children who increasingly rely upon the PRS and often have additional pressures when it comes to finding suitable tenancies, such as proximity to schools. Indeed, the proportion of single parent households living in the PRS has increased from 23% in 2003 to 45% in 2019 (*NISRA, Family Resources Survey Data, 2019*), a group who are disproportionately impacted by poverty. Another group who are increasingly relying on the PRS are young people, indeed by 2019 41% of young people aged 25 – 34 were living in the PRS, compared to 18% in 2003. As highlighted in the CIH research, the Local Housing Allowance ‘shared accommodation rate’ further restricts options for younger, single people with low incomes.

The issue of supply has become even more acute over the past year. Indeed, in October 2021 Property Pal reported fewer than half of rental properties available compared to 2019 and each property had four times the average enquiries sent via PropertyPal. This, alongside the reported annual rent growth of 5.6%, is reflective of **Housing Rights client experience, some of whom have struggled to access a suitable tenancy even with the 12 weeks’ notice** afforded under Section 1 of the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020.

In light of these barriers, Housing Rights sees it as important to afford extra protection to private renters by extending the Notice to Quit period to 12 weeks. Particularly given the fact that there are significantly more households at-risk-of-poverty after housing costs in the private rented sector in NI, than in the social rented sector (*NERI Institute, Housing Provision in Northern Ireland and its Implications for Living Standards and Poverty, 2018*) and the fact that loss of rented accommodation is one of the top three causes of homelessness in NI (*NI Homelessness Bulletin 2021*). **In Housing Rights’ view, extending the notice period required by landlords to 12 weeks may therefore help to avoid scenarios where low-income private renters feel pressurised to accept an unsuitable or poor standard property due to fear that it is their only option to avoid homelessness.** Furthermore, an extension to 12 weeks would give low-income private renters adequate time to access the support available, for example to help pay a deposit.

Housing Rights strongly agrees with the observation in the Department’s s75 screening that any proposal that increases security for tenants “will benefit families with dependents as they may have to consider new schools, childcare arrangements etc. when choosing a new property.” And that “an increase in the notice to quit would

also greatly benefit those with a disability as it would be more difficult for them to find alternative suitable PRS accommodation that has been adapted for their needs.”

Housing Rights also views there to be **significant value in continuing with the 12 weeks' Notice to Quit required by landlords under Section 1 of the Private Tenancies (Coronavirus Modifications) Act (Northern Ireland) 2020** until 4th May 2022. Efforts have been made by the Department, advice agencies and other stakeholders to ensure landlords and tenants are aware of the requirements under the emergency legislation and we believe there is merit in considering the value of not mixing this messaging by introducing a different timeframe in subsequent legislation.

5. Do you think that there should be exemptions to this notice period?

Yes

No

Housing Rights acknowledges the Minister’s stated intention that her Department will consider grounds for eviction in the next mandate. We recognise that this is a significant piece of work and we therefore do not see it as appropriate to introduce exemptions at this stage. **It is for this reason that we have proposed a 12-week Notice to Quit required by landlords, as we recognise that it may be necessary to include exemptions should a Notice to Quit period longer than 12 weeks be required.**

In considering grounds for eviction in the next mandate, we would also encourage the Department to consider further strengthening security of tenure in the private rented sector through the introduction of indefinite tenancies, which can only be ended on prescribed grounds, learning from the model implemented in Scotland under the Private Housing (Tenancies) (Scotland) Act 2016. Indeed, we note that indefinite tenancies have also been proposed in the Republic of Ireland's Housing for All Strategy 2021.

As well as considering which exemptions/grounds for eviction should apply, Housing Rights also notes the importance of implementing effective adjudication and dispute resolution processes in order to determine whether the ground had been executed and resolve any disputes. We view this as an important and significant piece of work which would not be feasible to carry out within the current mandate. Again, we would encourage the Department to consider the experience in Scotland; where Tribunals consider whether grounds for eviction have been met and where recommendations have been made to also consider the development of mediation services to fill the gap

between informal and formal tenant landlord dispute resolution. (*Indigo House, Rent Better, Wave 1 Baseline Report, 2020*) Northern Ireland should benefit from the learning in other jurisdictions.

6. The Notice to Quit specified in legislation will apply across the Private Rented Sector, including to tenancies related to Houses in Multiple Occupation (HMO) properties.

Do you think the length of Notice to Quit for those tenants living in an HMO, or for exemptions to the Notice to Quit, should be different from that of other tenants in the Private Rented Sector?

- Yes
- No

Housing Rights recommends that any extension in the Notice to Quit period required by landlords should be applied to all Private Rented Sector tenancies to ensure that all private renters are afforded the extra protection, and to ensure requirements for all are simple and easy to understand to prevent unnecessary disputes and difficulties. Indeed, in our view it would be important not to create a hierarchy of tenants, particularly given the fact that many HMO tenants do not know they are living in HMOs. Furthermore, if HMO tenancies were less secure than other private tenancies there is a risk that HMO living would become less attractive for people moving on from temporary accommodation, thereby adding pressures on homelessness services and waiting lists.

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