

## Consultation Responses

**Option 1** – Completely removes the specific requirements to accept and continue prevention duties that currently apply to Section 21 notices and evictions. The council can assess whether a prevention duty is owed, and it can be ended if 56 days have lapsed.

**Option 2** – Local authorities would have to accept a prevention duty at the point of a Section 8 notice being served regardless of whether there was a risk of homelessness in 56 days. This duty would not lapse after 56 days and would continue until one of the other circumstances for ending the duty applied. A list of mandatory reasons landlords can issue Section 8 notices is also not provided.

**Option 3** – Same as Option 2 except Landlords would have to give an approved reason from a list for issuing a Section 8 notice. This is the officer's recommended approach as it begins to mitigate the risk of Section 8 notices being issued without a valid reason and essentially becoming the new Section 21 notices.

Q1a. What will be the impact of option 1 on local authority resourcing? Please provide comments for your answer.

It is anticipated that the overall impact on local authority resourcing would be positive. This is because there would be no further no-fault evictions due to the removal of Section 21 notices. It is noted that the local authority can decide if a prevention duty is owed and that prevention duties will end after 56 days. As the local authority can decide whether prevention duty is owed from a valid notice being issued, the change in wording in Option 1 itself is not anticipated to increase pressure on local authority resourcing.

However, it is anticipated that Section 8 notices will likely replace the function previously provided by Section 21 notices and so it is important that the valid reasons for issuing a Section 8 notice are robustly monitored to ensure that no-fault evictions aren't now pursued through Section 8 notices. Annex B as outlined in Option 3 is welcomed as a good option towards preventing this outcome, but more detail must be provided on how this will be monitored. If the local authority is expected to monitor landlord's use of notices in place of Section 21s then specific funding must be provided.

Q1b. What will be the impact of option 1 on local authority caseloads? Please provide comments for your answer.

We anticipate that there would be a neutral impact on local authority caseloads as this legislation would decrease the number of cases for officers working with residents under the prevention duty through Section 21 notices. However, it remains to be seen how landlords will react to this change in legislation and maintain the mobility of their stock and is therefore difficult to predict the caseload of the council once the legislation is implemented. It is also noted that it is at the Council's discretion as to whether an applicant, who has received a valid notice to leave a tenancy, will be owed a prevention duty through Option 1.

Q1c. What will be the impact of option 1 on the demand on time for local authority staff? Please provide comments for your answer.

It is expected that there would be little change to the demand on time for staff despite the anticipated decrease in the number of people who would be owed a prevention duty resulting from Section 21 notices. This is because caseloads are continuing to increase due to the current socio-economic climate and it is difficult to predict the impact of this legislation in ending no-fault evictions as rogue landlords may abuse Section 8 notices without robust legislation and monitoring in place preventing this. There is potential that without robust safeguards in place, landlords may resort to pre-1988 unlawful tactics to force tenants to move out without due process. This is a concern and would require additional council resources to make sure it is effectively challenged.

Q1d. What will be the impact of option 1 on homelessness prevention activity and success rates within local authorities? Please provide comments for your answer.

It is anticipated that there would be a decrease in the number of people owed a prevention duty specifically from Section 21 notices.

However, there is concern that this legislation may impact local authorities' ability to effectively engage with private rented sector landlords who will require assurances that this change in legislation will not affect their ability to protect their property. This would decrease homelessness prevention activity success rates as there would potentially be less provision available to residents owed the prevention duty.

Q1e. Do you have any additional comments on the impacts of option 1 which have not been covered in your response to Q1a-d? **No.** If yes, please provide comments for your answer.

No comment.

Q2a. What will be the impact of option 2 on local authority resourcing? Please provide comments for your answer.

It is anticipated that this option would place additional stress on resourcing as all residents who receive a Section 8 notice are owed a prevention duty. The council's homelessness prevention team would therefore require additional resources to cope with the increased number and length of prevention cases arising from Section 8 notices. Although it is noted that there would no longer be any duties owed from Section 21 notices. There are also no proposed controls on the valid reasons a landlord can use to issue a Section 8 notice which in practise does not differentiate greatly from a Section 21 notice.

Q2b. What will be the impact of option 2 on local authority caseloads? Please provide comments for your answer.

It is anticipated that caseloads would increase in both quantity and length. The quantity is expected to increase as all residents who are issued a Section 8 notice are owed a Prevention Duty. Whilst the length of cases is expected to increase as the duty is owed even when 56 days has lapsed.

Q2c. What will be the impact of option 2 on the demand on time for local authority staff? Please provide comments for your answer.

Following the answer provided in Question 2b, staff capacity is expected to reduce in a team that is already at full capacity. If this Option 2 was pursued, support would be required for homelessness prevention teams to ensure that staff capacity is protected to ensure the effective delivery of key services.

It is also noted that the local authority will be required to assess at what point it is no longer reasonable for the applicant to continue to occupy, which would incur a relief duty. This would also have a reductive impact on staff capacity if residents offered Section 8 notices may also be required to be offered a relief duty in certain circumstances. Option 3 effectively mitigates this uncertainty with the inclusion of mandatory landlord circumstance grounds in Annex B – if robustly monitored.

Q2d. What will be the impact of option 2 on homelessness prevention activity and success rates within local authorities? Please provide comments for your answer.

It is expected that homelessness prevention activity would increase owing to the number of residents owed a prevention duty from Option 2's proposal. The absence of a set of lawful reasons a landlord can provide for the issuance of a Section 8 notice means they can effectively be used as a Section 21 previously. Success rates are also likely to decrease if local authority resourcing and staff capacity is not considered as part of this legislation.

Q2e. Do you have any additional comments on the impacts of option 2 which have not been covered in your response to Q2a-d? **Yes.** If yes, please provide comments for your answer.

Option 2 is not recommended for inclusion within the Renter’s Reform Bill as it does not require a landlord to provide a valid reason for the issuing of a Section 8 notice. The purpose of this change in legislation is to end no-fault evictions and the council does not see Option 2 as an effective method to achieve this.

Q3a. What will be the impact of option 3 on local authority resourcing? Please provide comments for your answer.

Whilst the impact on resourcing is expected to be less than that of Option 2, as landlords are required to provide a valid reason for issuing a Section 8 notice, a neutral impact is still anticipated on local authority resourcing. This is because local authorities would accept the prevention duty where a valid Section 8 notice has been issued and cannot close it on the basis that 56 days have lapsed. Although there will be a reduction in the number of homelessness presentations because of Section 21 notices, there is not sufficient information provided here to effectively predict the impact of this proposed change in legislation on local authority resourcing.

Q3b. What will be the impact of option 3 on local authority caseloads? Please provide comments for your answer.

It is expected that local authority caseloads will increase, albeit by less than Option 2, as local authorities would accept the prevention duty when a valid Section 8 notice is issued. The requirement for landlords to provide a valid reason as per Annex B is the reason why caseloads are expected to increase by less than Option 2 which does not legislate for this requirement. The extent to which this anticipated increase is because of the proposed changes to legislation or a consequence of increased pressures on residents remains to be seen.

Q3c. What will be the impact of option 3 on the demand on time for local authority staff? Please provide comments for your answer.

Staff capacity is expected to decrease as there is anticipated to be significant administration in the monitoring of landlords providing valid Section 8 notices as per Annex B’s list of mandatory landlord circumstance grounds. There is also expected to be an increased number of prevention cases and the length of these cases is expected to increase also due to the 56 days having lapsed not being eligible criteria for the end of a prevention duty. Although this will be somewhat mitigated by the end of Section 21 notices.

Q3d. What will be the impact of option 3 on homelessness prevention activity and success rates within local authorities? Please provide comments for your answer.

The number of residents owed a prevention duty is expected to increase although the inclusion of Annex B is welcomed as, if robustly implemented, this should legislate for the end of no-fault evictions. That all residents who receive a valid Section 8 notice, regardless of if they are threatened with homelessness, would be eligible for a prevention duty means caseloads would be expected to increase. Whilst the length of cases is also likely to increase as the 56-day limit does not apply.

Without additional resource and support for staff from central government there is concern that success rates may decrease following the implementation of Option 3 as it is unclear how Annex B would be effectively monitored to ensure valid reasons are provided for the issuing of Section 8 notices.

Q3e. Do you have any additional comments on the impacts of option 3 which have not been covered in your response to Q3a-d? **Yes**. If yes, please provide comments for your answer.

The council would be interested in the penalties applied to landlords who do issue a Section 8 notice without a valid reason as outlined in Annex B.

Q4. Do you have any comments on the proposed option to remove the reapplication duty from the homelessness legislation? **Yes**. Please provide comments for your answer.

The removal of the reapplication duty is supported as the Renter's Reform Bill renders it redundant with the removal of Section 21 notices.

Q5a. Do you have any comments on the proposed approach to minor technical changes? **No**. Please give your comments.

No comment.

Q5b. Do you have any comments on the proposed minor technical changes? **Yes.** Please give your comments.

Whilst we welcome the end of no-fault evictions through the removal of Section 21 notices, we are wary of the additional implications to local authority resources, staffing costs and the homelessness prevention and relief duties which will need to be recognised as part of the Renter's Reform Bill to ensure local authorities are supported to cope with any additional pressures resulting from this change in legislation. The Council would require additional funding to manage these changes in legislation to increase staff capacity and minimise the impacts on our homelessness prevention caseload and success rate.

It is also noted Section 8 notices will become the likely route for landlords to evict tenants. Therefore, it is vital that the list of reasons a landlord can provide to instigate a Section 8 notice, as per Annex B of the consultation, is robustly applied to ensure no-fault evictions are ended with Section 21 notices. It is for this reason that option 3 is the supported option for Wokingham Borough Council as it is the most effective method proposed to end no-fault evictions and mitigate the consequential impacts on local authority staffing, resourcing, and prevention duties. However, additional support will be required from central government to ensure local authorities are able to support this change in legislation through additional capacity and outlining effective mitigations for the risks identified in the council's consultation response.

Further information is sought on any exceptions to the ending of ASTs and fixed-term tenancies. For example, it may be useful to maintain fixed-term tenancies for student-letting so that the landlord can receive the property back at the end of the academic year.

A proposed addition to Annex B is the property requiring essential works to avoid disrepair that would require vacant access. This would need to be monitored but would enable private and social housing landlords to keep their properties safe and compliant with contemporary building safety standards. Another potential addition to Annex B is 'as a requirement of a local authority enforcement notice' due to an HMO being overcrowded. Currently, the local authority can force the landlord to move a tenant on to prevent overcrowding through Section 21 so an alternative method should be proposed as part of this change of legislation.

The abolishment of assured short-hold and fixed-term tenancies and the ambition to make all tenancies periodic in the future is positive in that it increases tenancy security amongst the Borough's rental sectors. However, most landlords prefer fixed-term tenancies as it offers a more effective toolkit to increase stock mobility and business planning. As the Council relies on private sector landlords for temporary accommodation for homelessness, it is vital that landlords have confidence in renting their properties to social housing tenants. Therefore, if fixed-term tenancies are abolished then safeguards should be considered to prevent private sector landlords from selling and encourage them to rent to social housing landlords or residents seeking to live in the private rented sector.

Finally, Wokingham Borough Council have invested in creating and maintaining a strong relationship with our private rented sector. There is a concern that the removal of Section 21 notices may impact our partner landlords' appetite to let properties to the council without relevant mitigations to protect their properties. Sourcing private rented sector stock is vital to the council successfully fulfilling its prevention and relief duties. A reduction in private rented stock will increase pressures on the council's already stretched temporary accommodation budgets. Therefore, it is important that the concerns of private rented sector landlords are considered when developing this proposal to ensure continued cooperation between the private rented and social housing sectors.

Q6. Do you think that any of the proposed changes could give rise to any impacts on people who share a protected characteristic? Yes. Please give your comments.

Overall, we anticipate a positive impact on people with protected characteristics as these demographics are there will be no more no-fault evictions resulting from Section 21 notices. National statistics show that people from a range of the protected characteristics are more likely to be housed in rented accommodation, so the removal of Section 21 notices provides greater tenancy security.

Furthermore, the increase in refugees being accepted and housed by local authorities, registered providers and private landlords means that this group will also benefit from greater tenancy security.

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